

LAWS

PASSED AT

THE SECOND SESSION

OF THE

LEGISLATIVE ASSEMBLY

OF THE

STATE OF NORTH DAKOTA.

BEGUN AND HELD AT BISMARCK, THE CAPITAL OF SAID STATE, ON
TUESDAY, THE SIXTH DAY OF JANUARY, A. D. 1891,
AND CONCLUDED MARCH SIXTH, A. D. 1891.

BISMARCK, N. D.
TRIBUNE, PRINTERS AND BINDERS.
1891.

THE ENABLING ACT.

[Approved Feb. 22, 1889.]

AN ACT to Provide for the Division of Dakota into Two States, and to Enable the People of North Dakota, South Dakota, Montana and Washington to Form Constitutions and State Governments, and to be Admitted into the Union on an Equal Footing with the Original States, and to Make Donations of Public Lands to such States.

Be it Enacted by the Senate and House of Representatives of the United States of America in Congress Assembled, That the inhabitants of all that part of the area of the United States now constituting the Territories of Dakota, Montana and Washington, as at present described may become the States of North Dakota, South Dakota, Montana and Washington respectively, as hereinafter provided.

§ 2. The area comprising the Territory of Dakota shall, for the purposes of this act, be divided on the line of the seventh standard parallel produced due west to the western boundary of said Territory; and the delegates elected as hereinafter provided to the Constitutional Convention in districts north of said parallel shall assemble in convention, at the time prescribed in this act, at the city of Bismarck; and the delegates elected in districts south of said parallel shall, at the same time, assemble in convention at the city of Sioux Falls.

§ 3. That all persons who are qualified by the laws of said territories to vote for representatives to the Legislative Assemblies thereof, are hereby authorized to vote for and choose delegates to form conventions in said proposed states; and the qualifications for delegates to such conventions shall be such as by the laws of said territories, respectively, persons are required to possess to be eligible to the Legislative Assemblies thereof, and the aforesaid delegates to form said conventions shall be apportioned within the limits of the proposed states in such districts as may be established as herein provided, in proportion to the population in each of said counties and districts, as near as may be, to be ascertained at the time of making said apportionments by the persons hereinafter authorized to make the same, from the best information obtainable, in each of which districts three delegates shall be elected, but no elector shall vote for more than two persons for delegates to such conventions; that said apportionments shall be made by the Governor, the Chief Justice and the Secretary of said territories; and the Governors of said territories shall, by

proclamation, order an election of the delegates aforesaid in each of said proposed states, to be held on the Tuesday after the second Monday in May, 1889, which proclamation shall be issued on the 15th day of April, 1889; and such election shall be conducted, the returns made, the result ascertained and the certificates to the persons elected to such convention issued in the same manner as is prescribed by the laws of the said territories regulating elections therein for delegates to Congress; and the number of votes cast for delegates in each precinct shall also be returned. The number of delegates to said conventions respectively, shall be seventy-five; and all persons resident in said proposed states who are qualified voters of said territories as herein provided shall be entitled to vote upon the election of delegates, and under such rules and regulations as said conventions may prescribe not in conflict with this act, upon the ratification or rejection of the constitutions.

§ 4. That the delegates to the conventions elected as provided for in this act shall meet at the seat of government of each of said territories, except the delegates elected in South Dakota, who shall meet at the city of Sioux Falls, on the Fourth day of July, 1889, and, after organization, shall declare on behalf of the people of said proposed states that they adopt the Constitution of the United States; whereupon the said conventions shall be, and are hereby authorized to form Constitutions and State Governments for said proposed states, respectively. The constitution shall be republican in form, and make no distinction in civil or political rights on account of race or color, except as to Indians not taxed, and not to be repugnant to the Constitution of the United States and the principles of the Declaration of Independence. And said conventions shall provide by ordinances irrevocable without the consent of the United States and the people of said states:

First. That the perfect toleration of religious sentiment shall be secured, and that no inhabitant of said states shall ever be molested in person or property on account of his or her mode of religious worship.

Second. That the people inhabiting said proposed states do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within the boundaries thereof, and to all lands lying within said limits owned or held by any Indian or Indian tribes; and that until the title thereto shall have been extinguished by the United States, the same shall be and remain subject to the disposition of the United States, and said Indian lands shall remain under the absolute jurisdiction and control of the Congress of the United States; that the lands belonging to citizens of the United States residing without the said states shall never be taxed at a higher rate than the lands belonging to residents thereof; that no taxes shall be imposed by the states on lands or property therein belonging to or which may hereafter be purchased by the United States or reserved for its

use. But nothing herein, or in the ordinances herein provided for, shall preclude the said states from taxing as other lands are taxed any lands owned or held by any Indian who has severed his tribal relations, and has obtained from the United States or from any person a title thereto by patent or other grant, save and except such lands as have been or may be granted to any Indian or Indians under any act of Congress containing a provision exempting the lands thus granted from taxation, but said ordinances shall provide that all such lands shall be exempt from taxation by said states so long and to such extent as such act of Congress may prescribe.

Third. That the debts and liabilities of said territories shall be assumed and paid by said states respectively.

Fourth. That provision shall be made for the establishment and maintenance of systems of public schools, which shall be open to all children of said state, and free from sectarian control.

§ 5. That the convention which shall assemble at Bismarck shall form a Constitution and State Government for a state to be known as North Dakota, and the convention which shall assemble at Sioux Falls shall form a Constitution and State Government for a state to be known as South Dakota; *Provided*, That at the election for delegates to the Constitutional Convention in South Dakota, as hereinbefore provided, each elector may have written or printed on his ballot, the words, "For the Sioux Falls Constitution," or the words, "Against the Sioux Falls Constitution," and the votes on this question shall be returned and canvassed in the same manner as for the election provided for in Section 3 of this act; and if a majority of all votes cast on this question shall be "For the Sioux Falls Constitution" it shall be the duty of the convention which may assemble at Sioux Falls, as herein provided, to resubmit to the people of South Dakota, for ratification or rejection at the election hereinafter provided for in this act, the Constitution framed at Sioux Falls, and adopted November 3, 1885, and also the articles and propositions separately submitted at that election, including the question of locating the temporary seat of government, with such changes only as relate to the name and boundary of the proposed state, to the reapportionment of the judicial and legislative districts, and such amendments as may be necessary in order to comply with the provisions of this act; and if a majority of the votes cast on the ratification or rejection of the Constitution shall be for the Constitution irrespective of the articles separately submitted, the State of South Dakota shall be admitted as a state in the Union under said Constitution as hereinafter provided, but the archives, records and books of the Territory of Dakota shall remain at Bismarck, the capital of North Dakota, until an agreement in reference thereto is reached by said states. But if at the election for delegates to the Constitutional Convention in South Dakota a majority of all the votes cast at that election shall be "Against the Sioux Falls Constitution," then,

and in that event, it shall be the duty of the convention which will assemble at the city of Sioux Falls on the Fourth day of July, 1889, to proceed to form a Constitution and State Government as provided in this act the same as if that question had not been submitted to a vote of the people of South Dakota.

§ 6. It shall be the duty of the Constitutional Conventions of North Dakota and South Dakota to appoint a Joint Commission, to be composed of not less than three members of each convention, whose duty it shall be to assemble at Bismarck, the present seat of government of said territory, and agree upon an equitable division of all property belonging to the Territory of Dakota, the disposition of all public records, and also adjust and agree upon the amounts of the debts and liabilities of the Territory, which shall be assumed and paid by each of the proposed states of North Dakota and South Dakota; and the agreement reached respecting the territorial debts and liabilities shall be incorporated in the respective constitutions, and each of said states shall obligate itself to pay its proportion of such debts and liabilities the same as if they had been created by such states respectively.

§ 7. If the constitutions formed for both North Dakota and South Dakota shall be rejected by the people at the elections for the ratification or rejection of their respective constitutions as provided for in this act, the territorial government of Dakota shall continue in existence the same as if this act had not been passed. But if the constitution formed for either North Dakota or South Dakota shall be rejected by the people, that part of the territory so rejecting its proposed constitution shall continue under the territorial government of the present Territory of Dakota, but shall, after the state adopting its constitution is admitted into the Union, be called by the name of the Territory of North Dakota or South Dakota, as the case may be; *Provided*, That if either of the proposed states provided for in this act shall reject the constitution which may be submitted for ratification or rejection at the election provided therefor, the Governor of the territory in which such proposed constitution was rejected shall issue his proclamation reconvening the delegates elected to the convention which formed such rejected constitution, fixing the time and place at which said delegates shall assemble; and when so assembled they shall proceed to form another constitution or to amend the rejected constitution, and shall submit such new constitution or amended constitution to the people of the proposed state for ratification or rejection, at such time as said convention may determine; and all the provisions of this act, so far as applicable, shall apply to such convention so reassembled and to the constitution which may be formed, its ratification or rejection, and to the admission of the proposed state.

§ 8. The Constitutional Convention which may assemble in South Dakota shall provide by ordinance for resubmitting the Sioux Falls Constitution of 1885, after having amended the same

as provided in Section 5 of this act, to the people of South Dakota for ratification or rejection at an election to be held therein on the first Tuesday in October, 1889; but if said Constitutional Convention is authorized and required to form a new constitution for South Dakota, it shall provide for submitting the same in like manner to the people of South Dakota for ratification or rejection at an election to be held in said proposed state on the said first Tuesday in October. And the Constitutional Conventions which may assemble in North Dakota, Montana and Washington, shall provide in like manner for submitting the constitutions formed by them to the people of said proposed states respectively, for ratification or rejection, at elections to be held in said proposed states on the said first Tuesday in October. At the elections provided for in this section the qualified voters of said proposed states shall vote directly for or against the proposed constitutions, and for or against any articles or propositions separately submitted. The returns of said elections shall be made to the Secretary of each of said territories, who, with the Governor and Chief Justice thereof, or any two of them, shall canvass the same, and if a majority of the legal votes cast shall be for the constitution, the Governor shall certify the result to the President of the United States, together with a statement of the votes cast thereon and upon separate articles or propositions, and a copy of the said constitution, articles, propositions and ordinances. And if the constitutions and governments of said proposed states are republican in form, and if all the provisions of this act have been complied with in the formation thereof, it shall be the duty of the President of the United States to issue his proclamation announcing the result of the election in each, and thereupon the proposed states which have adopted constitutions and formed state governments, as herein provided, shall be deemed admitted by Congress into the Union, under and by virtue of this act, on an equal footing with the original states from and after the date of said proclamation.

§ 9. That until the next general census, or until otherwise provided by law, said states shall be entitled to one representative in the House of Representatives of the United States, except South Dakota, which shall be entitled to two; and the representatives to the Fifty-first Congress, together with the Governors and other officers provided for in said constitutions, may be elected on the same day of the election for the ratification or rejection of the constitutions; and until said state officers are elected and qualified under the provisions of each constitution and the states, respectively, are admitted into the Union, the territorial officers shall continue to discharge the duties of their respective offices in each of said territories.

§ 10. That upon the admission of each of said states into the Union, sections numbered 16 and 36 in every township of said proposed states, and where such sections or any part thereof have been sold or otherwise disposed of by or under the authority of

any act of Congress, other lands equivalent thereto, in legal subdivisions of not less than one-quarter section, and as contiguous as may be to the seceion in lieu of which the same is taken, are hereby granted to said states for the support of common schools, such indemnity lands to be selected within said states in such manner as the Legislature may provide, with the approval of the Secretary of the Interior; *Provided*, That the sixteenth and thirty-sixth sections embraced in permanent reservations for national purposes shall not, at any time, be subject to the grants nor to the indemnity provisions of this act nor shall any lands embraced in Indian, military or other reservations of any character, be subject to the grants or to the indemnity provisions of this act until the reservation shall have been extinguished and such lands be restored to and become a part of the public domain.

§ 11. That all lands herein granted for educational purposes shall be disposed of only at public sale, and at a price not less than \$10 per acre, the proceeds to constitute a permanent school fund, the interest of which only shall be expended in the support of said schools. But said lands may, under such regulation as the Legislature shall prescribe, be leased for periods of not more than five years, in quantities not exceeding one section to any one person or company; and such lands shall not be subject to pre-emption, homestead entry, or any other entry under the land laws of the United States, whether surveyed or unsurveyed, but shall be reserved for school purposes only.

§ 12. That upon the admission of each of said states into the Union, in accordance with the provision of this act fifty sections of the unappropriated public lands within said states, to be selected and located in legal subdivisions as provided in Section 10 of this act, shall be, and are hereby, granted to said states for the purpose of erecting public buildings at the capital of said states for legislative, executive and judicial purposes.

§ 13. That five per centum of the proceeds of the sales of public lands lying within said states which shall be sold by the United States subsequent to the admission of said states into the Union, after deducting all the expenses incident to the same, shall be paid to the said states, to be used as a permanent fund, the interest of which only shall be expended for the support of common schools within said states, respectively.

§ 14. That the lands granted to the territories of Dakota and Montana by the act of February 18, 1881, entitled "An act to grant lands to Dakota, Montana, Arizona, Idaho and Wyoming for university purposes," are hereby vested in the states of South Dakota, North Dakota and Montana respectively, if such states are admitted into the Union as provided in this act, to the extent of the full quantity of seventy-two sections to each of said states, and any portion of said lands that may not have been selected by either of said territories of Dakota or Montana may be selected by the respective states aforesaid; but said act of February 18,

1881, shall be so amended as to provide that none of said lands shall be sold for less than \$10 per acre, and the proceeds shall constitute a permanent fund to be safely invested and held by said states severally, and the income thereof be used exclusively for university purposes. And such quantity of the lands authorized by the fourth section of the act of July 17, 1854, to be reserved for university purposes in the Territory of Washington, as, together with the land confirmed to the vendees of the territory by the act of March 14, 1864, will make the full quantity of seventy-two entire sections, are hereby granted in like manner to the State of Washington for the purposes of a university in said State. None of the lands granted in this section shall be sold at less than \$10 per acre; but said lands may be leased in the same manner as provided in Section 11 of this act. The schools, colleges and universities provided for in this act shall forever remain under the exclusive control of said states, respectively, and no part of the proceeds arising from the sale or disposal of any lands herein granted for educational purposes shall be used for the support of any sectarian or denominational school, college or university. The section of land granted by the act of June 16, 1880, to the Territory of Dakota, for an Asylum for the Insane shall, upon the admission or said State of South Dakota into the Union, become the property of said State.

§ 15. That so much of the lands belonging to the United State as have been acquired and set apart for the purpose mentioned in "An act appropriating moneys for the erection of a penitentiary in the Territory of Dakota," approved March 2, 1881, together with the buildings thereon, be, and the same is hereby granted, together with any unexpended balances of the moneys appropriated therefor by said act, to said state of South Dakota, for the purposes therein designated, and the States of North Dakota and Washington shall, respectively, have like grants for the same purposes, and subject to like terms and conditions as provided in said act of March 2, 1881, for the Territory of Dakota. The penitentiary at Deer Lodge City, Montana, and all lands connected therewith and set apart and reserved therefor, are hereby granted to the State of Montana.

§ 16. That 90,000 acres of land to be selected and located as provided in Section 10 of this act, are hereby granted to each of said states except to the State of South Dakota, to which 120,000 acres are granted for the use and support of agricultural colleges in said states, as provided in the acts of congress making donations of lands for such purposes.

§ 17. That in lieu of the grant of land for purposes of internal improvement made to new states by the eight section of the act of September 4, 1841, which act is hereby repealed as to the states provided for by this act, and in lieu of any claim or demand by the said states, or either of them, under the act of September 28, 1850, and Section 2479 of the Revised Statutes, making a grant

of swamp and overflowed lands to certain states, which grant it is hereby declared is not extended to the states provided for in this act, and in lieu of any grant of saline lands to said states, the following grants of land are hereby made, to-wit:

To the State of South Dakota: For the School of Mines, 40,000 acres; for the Reform School, 40,000 acres; for the Deaf and Dumb Asylum, 40,000 acres; for the Agricultural College, 40,000 acres; for the University, 40,000 acres; for the State Normal Schools, 80,000 acres; for public buildings at the capital of said state, 50,000 acres, and for such other educational and charitable purposes as the Legislature of said State may determine, 170,000 acres; in all, 500,000 acres.

To the State of North Dakota a like quantity of land as is in this section granted to the State of South Dakota, and to be for like purposes, and in like proportion as far as practicable.

To the State of Montana: For the establishment and maintenance of a School of Mines, 100,000 acres; for the State Normal Schools, 100,000 acres; for Agricultural Colleges, in addition to the grant hereinbefore made for that purpose, 50,000 acres; for the establishment of the State Reform School, 50,000 acres; for the establishment of a Deaf and Dumb Asylum, 50,000 acres; for public buildings at the capital of the State, in addition to the grant hereinbefore made for that purpose, 150,000 acres.

To the State of Washington: For the establishment and maintenance of a Scientific School, 100,000 acres; for the State Normal Schools, 100,000 acres; for public buildings at the state capital, in addition to the grant hereinbefore made for that purpose, 100,000 acres; for state charitable, educational, penal and reformatory institutions, 200,000 acres.

That the states provided for in this act shall not be entitled to any further or other grants of land for any purpose than as expressly provided for in this act. And the lands granted by this section shall be held, appropriated and disposed of exclusively for the purposes herein mentioned, in such manner as the Legislatures of the respective states may severally provide.

§ 18. That all mineral lands shall be exempted from the grants of this act. But if sections 16 and 36, of any subdivision or portion of any smallest subdivision thereof in any township shall be found by the Department of the Interior to be mineral lands, said states are hereby authorized and empowered to select, in legal subdivisions, an equal quantity of other unappropriated lands in said states, in lieu thereof, for the use and benefit of the common schools of said states.

§ 19. That all lands granted in quantity or as indemnity by this act shall be selected, under the direction of the Secretary of the Interior, from the surveyed, unreserved and unappropriated public lands of the United States within the limits of the respective states entitled thereto. And there shall be deducted from the number of acres of land donated by this act for specific objects to

said states the number of acres in each heretofore donated by Congress to said territories for similar objects.

§ 20. That the sum of \$20,000 or so much thereof as may be necessary, is hereby appropriated, out of any money in the treasury not otherwise appropriated, to each of said territories for defraying the expenses of the said conventions, except to Dakota for which the sum of \$40,000 is so appropriated, \$20,000 each for South Dakota and North Dakota, and for the payment of the members thereof, under the same rules and regulations and at the same rates as are now provided by law for the payment of the Territorial Legislatures. Any money hereby appropriated not necessary for such purpose shall be covered into the treasury of the United States.

§ 21. That each of said states when admitted as aforesaid shall constitute one judicial district, the names thereof to be the same as the names of the states, respectively; and the circuit and district courts therefor shall be held at the capital of such state for the time being, and each of said districts shall, for judicial purposes, until otherwise provided, be attached to the Eighth Judicial circuit, except Washington and Montana, which shall be attached to the Ninth Judicial circuit. There shall be appointed for each of said districts one district judge, one United States Attorney and one United States Marshal. The judge of each of said districts shall receive a yearly salary of \$3,500, payable in four equal installments on the first day of January, April, July and October of each year, and shall reside in the district. There shall be appointed clerks of said courts in each district, who shall keep their offices at the capital of said state. The regular terms of said courts shall be held in each district, at the place aforesaid, on the first Monday in April and the first Monday in November of each year, and only one grand jury and one petit jury shall be summoned in both said circuit and district courts for each of said districts and the judges thereof, respectively, shall possess the same powers and jurisdiction, and perform the same duties required to be performed by the other circuit and district courts and judges of the United States, and shall be governed by the same laws and regulations. The marshal, district attorney and clerks of the circuit and district courts of each of said districts, and all other officers and persons performing duties in the administration of justice therein, shall severally possess the powers and perform the duties lawfully possessed and required to be performed by similar officers in other districts of the United States; and shall, for the services they may perform, receive the fees and compensation allowed by law to other similar officers and persons performing similar duties in the state of Nebraska.

§ 22. That all cases of appeal or writ of error heretofore prosecuted and now pending in the Supreme Court of the United States upon any record from the Supreme Court of either of the territories mentioned in this act, or that may hereafter lawfully be

prosecuted upon any record from either of said courts, may be heard and determined by said Supreme Court of the United States. And the mandate of execution or of further proceedings shall be directed by the Supreme Court of the United States to the circuit or district court hereby established within the state succeeding the territory from which such record is or may be pending, or to the Supreme Court of such state, as the nature of the case may require; *Provided*, That the mandate of execution or of further proceedings, shall in cases arising in the Territory of Dakota, be directed by the Supreme Court of the United States to the circuit or district court of the district of South Dakota, or to the Supreme court of the State of South Dakota, or to the circuit or district court of the district of North Dakota, or to the Supreme Court of the State of North Dakota, or to the Supreme Court of the Territory of North Dakota, as the nature of the case may require. And each of the circuit, district and state courts, herein named, shall, respectively, be the successor of the Supreme Court of the territory, as to all such cases arising within the limits embraced within the jurisdiction of such courts respectively, with full power to proceed with the same, and award mesne or final process therein; and that from all judgments and decrees of the Supreme Court of either of the territories mentioned in this act, in any case arising within the limits of any of the proposed states prior to admission, the parties to such judgment shall have the same right to prosecute appeals and writs of error to the Supreme Court of the United States as they shall have had by law prior to the admission of said state into the Union.

§ 23. That in respect to all cases, proceedings and matters now pending in the Supreme or district courts of either of the territories mentioned in this act at the time of the admission into the Union of either of the states mentioned in this act, and arising within the limits of any such state, whereof the circuit or district courts by this act established might have had jurisdiction under the laws of the United States had such courts existed at the time of the commencement of such cases, the said circuit and district courts, respectively, shall be the successors of said Supreme and district courts of said territory; and in respect to all other cases, proceedings and matters pending in the Supreme or district courts of any of the territories mentioned in this act at the time of the admission of such territory into the Union, arising within the limits of said proposed state, the courts established by such state shall, respectively, be the successors of said Supreme and territorial courts; and all the files, records, indictments and proceedings relating to any such cases, shall be transferred to such circuit, district and state courts, respectively, and the same shall be proceeded with therein in due course of law; but no writ, action, indictment, cause or proceeding now pending, or that prior to the admission of any of the states mentioned in this act, shall be pending in any territorial court in any of the territories men-

tioned in this act shall abate by the admission of any such state into the Union, but the same shall be transferred and proceeded within the proper United States circuit, district or state court, as the case may be; *Provided, however,* That in all civil actions, causes and proceedings, in which the United States is not a party, transfers shall not be made to the circuit and district courts of the United States except upon the written request of one of the parties to such action or proceeding filed in the proper court; and in the absence of such request, such cases shall be proceeded with within the proper state courts.

§ 24. That the Constitutional Conventions may, by ordinance, provide for the election of officers for full state governments, including members of the legislatures and representatives in the Fifty-first Congress; but said state governments shall remain in abeyance until the states shall be admitted into the Union, respectively, as provided in this act. In case the constitution of any of said proposed states shall be ratified by the people, but not otherwise, the Legislature thereof may assemble, organize and elect two senators of the United States; and the Governor and Secretary of State of such proposed state shall certify the election of the senators and representatives in Congress; and when such state is admitted into the Union, the senators and representatives shall be entitled to be admitted to seats in Congress, and to all the rights and privileges of senators and representatives of other states in the Congress of the United States; and the officers of the state governments formed in pursuance of said constitutions, as provided by the Constitutional Conventions, shall proceed to exercise all the functions of state officers; and all laws in force made by said territories, at the time of their admission into the Union, shall be in force in said states, except as modified or changed by this act, or by the constitutions of the states, respectively.

§ 25. That all acts or parts of acts in conflict with the provisions of this act, whether passed by the Legislatures of said territories or by Congress, are hereby repealed.

Constitution of the State of North Dakota.

[Adopted Oct. 1, 1889; yeas, 27,441; nays, 8,107.]

PREAMBLE.

We, the people of North Dakota, grateful to Almighty God for the blessings of civil and religious liberty, do ordain and establish this Constitution.

ARTICLE I.

DECLARATION OF RIGHTS.

§ 1. All men are by nature equally free and independent and have certain inalienable rights, among which are those of enjoying and defending life and liberty; acquiring, possessing and protecting property and reputation; and pursuing and obtaining safety and happiness.

§ 2. All political power is inherent in the people. Government is instituted for the protection, security and benefit of the people, and they have a right to alter or reform the same whenever the public good may require.

§ 3. The State of North Dakota is an inseparable part of the American Union and the Constitution of the United States is the supreme law of the land.

§ 4. The free exercise and enjoyment of religious profession and worship, without discrimination or preference shall be forever guaranteed in this State, and no person shall be rendered incompetent to be a witness or juror on account of his opinion on matters of religious belief; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this State.

§ 5. The privilege of the writ of *habeas corpus* shall not be suspended unless, when in case of rebellion or invasion, the public safety may require.

§ 6. All persons shall be bailable by sufficient sureties, unless for capital offenses when the proof is evident or the presumption great. Excessive bail shall not be required, nor excessive fines imposed, nor shall cruel or unusual punishments be inflicted. Witnesses shall not be unreasonably detained, nor be confined in any room where criminals are actually imprisoned.

§ 7. The right of trial by jury shall be secured to all, and remain inviolate; but a jury in civil cases, in courts not of record may consist of less than twelve men, as may be prescribed by law.

§ 8. Until otherwise provided by law, no person shall, for a felony, be proceeded against criminally, otherwise than by indictment, except in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger. In all other cases, offenses shall be prosecuted criminally by indictment or information. The Legislative Assembly may change, regulate or abolish the grand jury system.

§ 9. Every man may freely write, speak and publish his opinion on all subjects, being responsible for the abuse of that privilege. In all civil and criminal trials for libel the truth may be given in evidence, and shall be a sufficient defense when the matter is published with good motives and for justifiable ends; and the jury shall have the same power of giving a general verdict as in other cases; and in all indictments or informations for libel, the jury shall have the right to determine the law and the facts under the direction of the court as in other cases.

§ 10. The citizens have a right, in a peaceable manner, to assemble together for the common good, and to apply to those invested with the powers of government for the redress of grievances, or for other proper purposes, by petition, address or remonstrance.

§ 11. All laws of a general nature shall have a uniform operation.

§ 12. The military shall be subordinate to the civil power. No standing army shall be maintained by this State in time of peace, and no soldiers shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, except in the manner prescribed by law.

§ 13. In criminal prosecutions in any court whatever, the party accused shall have the right to a speedy and public trial; to have the process of the court to compel the attendance of witnesses in his behalf; and to appear and defend in person and with counsel. No person shall be twice put in jeopardy for the same offense, nor be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property without due process of law.

§ 14. Private property shall not be taken or damaged for public use without just compensation having been first made to, or paid into court for the owner, and no right of way shall be appropriated to the use of any corporation, other than municipal, until full compensation therefor be first made in money or ascertained and paid into court for the owner, irrespective of any benefit from any improvement proposed by such corporation, which compensation shall be ascertained by a jury, unless a jury be waived.

§ 15. No person shall be imprisoned for debt unless upon re-

fusal to deliver up his estate for the benefit of his creditors, in such manner as shall be prescribed by law; or in cases of tort; or where there is strong presumption of fraud.

§ 16. No bill of attainder, *ex post facto* law, or law impairing the obligations of contracts shall ever be passed.

§ 17. Neither slavery nor involuntary servitude, unless for the punishment of crime, shall ever be tolerated in this State.

§ 18. The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated; and no warrant shall issue but upon probable cause, supported by oath or affirmation, particularly describing the place to be searched and the persons and things to be seized.

§ 19. Treason against the State shall consist only in levying war against it, adhering to its enemies or giving them aid and comfort. No person shall be convicted of treason unless on the evidence of two witnesses to the same overt act, or confession in open court.

§ 20. No special privileges or immunities shall ever be granted which may not be altered, revoked or repealed by the Legislative Assembly; nor shall any citizen or class of citizens be granted privileges or immunities which upon the same terms shall not be granted to all citizens.

§ 21. The provisions of this Constitution are mandatory and prohibitory unless, by express words, they are declared to be otherwise.

§ 22. All courts shall be open, and every man for any injury done him in his lands, goods, person or reputation shall have remedy by due process of law, and right and justice administered without sale, denial or delay. Suits may be brought against the State in such manner, in such courts, and in such cases, as the Legislative Assembly may, by law, direct.

§ 23. Every citizen of this State shall be free to obtain employment wherever possible, and any person, corporation, or agent thereof, maliciously interfering or hindering in any way, any citizen from obtaining or enjoying employment already obtained, from any other corporation or person, shall be deemed guilty of a misdemeanor.

§ 24. To guard against transgressions of the high powers which we have delegated, we declare that everything in this article is excepted out of the general powers of government and shall forever remain inviolate.

ARTICLE II.

THE LEGISLATIVE DEPARTMENT.

§ 25. The legislative power shall be vested in a Senate and House of Representatives.

§ 26. The Senate shall be composed of not less than thirty nor more than fifty members.

§ 27. Senators shall be elected for the term of four years, except as hereinafter provided.

§ 28. No person shall be a senator who is not a qualified elector in the district in which he may be chosen, and who shall not have attained the age of twenty-five years, and have been a resident of the State or Territory for two years next preceding his election.

§ 29. The Legislative Assembly shall fix the number of senators, and divide the State into as many senatorial districts as there are senators, which districts as nearly as may be, shall be equal to each other in the number of inhabitants entitled to representation. Each district shall be entitled to one senator and no more, and shall be composed of compact and contiguous territory; and no portion of any county shall be attached to any other county, or part thereof, so as to form a district. The districts as thus ascertained and determined shall continue until changed by law.

§ 30. The senatorial districts shall be numbered consecutively from one upwards, according to the number of districts prescribed, and the senators shall be divided into two classes. Those elected in the districts designated by even numbers shall constitute one class, and those elected in districts designated by odd numbers shall constitute the other class. The senators of one class elected in the year 1890 shall hold their office for two years, those of the other class shall hold their office four years, and the determination of the two classes shall be by lot, so that one-half of the senators, as nearly as practicable, may be elected biennially.

§ 31. The Senate, at the beginning and close of each regular session, and at such other times as may be necessary, shall elect one of its members president *pro tempore*, who may take the place of the Lieutenant Governor under rules prescribed by law.

§ 32. The House of Representatives shall be composed of not less than sixty, nor more than one hundred and forty members.

§ 33. Representatives shall be elected for the term of two years.

§ 34. No person shall be a representative who is not a qualified elector in the district from which he may be chosen, and who shall not have attained the age of twenty-one years, and have been a resident of the State or Territory for two years next preceding his election.

§ 35. The members of the House of Representatives shall be apportioned to and elected at large from each senatorial district. The Legislative Assembly shall, in the year 1895, and every tenth year, cause an enumeration to be made of all the inhabitants of this State, and shall at its first regular session after each such enumeration, and also after each federal census, proceed to fix by law the number of senators, which shall constitute the Senate of North Dakota, and the number of representatives which shall constitute the House of Representatives of North Dakota, within the limits prescribed by this Constitution, and at the same session shall proceed to reapportion the State into senatorial districts, as pre-

scribed by this Constitution, and to fix the number of members of the House of Representatives, to be elected from the several senatorial districts; *Provided*, That the Legislative Assembly may, at any regular session, redistrict the State into senatorial districts, and apportion the senators and representatives respectively.

§ 36. The House of Representatives shall elect one of its members as Speaker.

§ 37. No judge or clerk of any court, Secretary of State, Attorney General, register of deeds, sheriff or person holding any office of profit under this State, except in the militia or the office of attorney at law, notary public or justice of the peace, and no person holding any office of profit or honor under any foreign government, or under the government of the United States, except postmasters whose annual compensation does not exceed the sum of \$300, shall hold any office in either branch of the Legislative Assembly or become a member thereof.

§ 38. No member of the Legislative Assembly, expelled for corruption, and no person convicted of bribery, perjury or other infamous crime, shall be eligible to the Legislative Assembly, or to any office in either branch thereof.

§ 39. No member of the Legislative Assembly shall, during the term for which he was elected, be appointed or elected to any civil office in this State, which shall have been created, or the emoluments of which shall have been increased, during the term for which he was elected; nor shall any member receive any civil appointment from the Governor, or Governor and Senate, during the term for which he shall have been elected.

§ 40. If any person elected to either house of the Legislative Assembly shall offer or promise to give his vote or influence, in favor of, or against any measure or proposition pending or proposed to be introduced into the Legislative Assembly, in consideration, or upon conditions, that any other person elected to the same Legislative Assembly will give, or will promise or assent to give, his vote or influence in favor of or against any other measure or proposition, pending or proposed to be introduced into such Legislative Assembly, the person making such offer or promise shall be deemed guilty of solicitation of bribery. If any member of the Legislative Assembly shall give his vote or influence for or against any measure or proposition, pending or proposed to be introduced into such Legislative Assembly, or offer, promise or assent so to do upon condition that any other member will give, promise or assent to give his vote or influence in favor of or against any other such measure or proposition pending or proposed to be introduced into such Legislative Assembly, or in consideration that any other member hath given his vote or influence, for or against any other measure or proposition in such Legislative Assembly, he shall be deemed guilty of bribery. And any person, member of the Legislative Assembly or person elected thereto, who shall be guilty of either such offenses, shall be expelled, and

shall not thereafter be eligible to the Legislative Assembly, and, on the conviction thereof in the civil courts, shall be liable to such further penalty as may be prescribed by law.

§ 41. The term of service of the members of the Legislative Assembly shall begin on the first Tuesday in January, next after their election.

§ 42. The members of the Legislative Assembly shall in all cases except treason, felony and breach of the peace, be privileged from arrest during their attendance at the sessions of their respective houses, and in going to or returning from the same. For words used in any speech or debate in either house, they shall not be questioned in any other place.

§ 43. Any member who has a personal or private interest in any measure or bill proposed or pending before the Legislative Assembly, shall disclose the fact to the house of which he is a member and shall not vote thereon without the consent of the house.

§ 44. The Governor shall issue writs of election to fill such vacancies as may occur in either House of the Legislative Assembly.

§ 45. Each member of the Legislative Assembly shall receive as a compensation for his services for each session, five dollars per day, and ten cents for every mile of necessary travel in going to and returning from the place of the meeting of the Legislative Assembly on the most usual route.

§ 46. A majority of the members of each house shall constitute a quorum, but a smaller number may adjourn from day to day, and may compel the attendance of absent members, in such a manner, and under such a penalty, as may be prescribed by law.

§ 47. Each house shall be the judge of the election returns and qualifications of its own members.

§ 48. Each house shall have the power to determine the rules of proceeding, and punish its members or other persons for contempt or disorderly behavior in its presence; to protect its members against violence or offers of bribes or private solicitation, and with the concurrence of two-thirds, to expel a member; and shall have all other powers necessary and usual in the Legislative Assembly of a free state. But no imprisonment by either house shall continue beyond thirty days. Punishment for contempt or disorderly behavior shall not bar a criminal prosecution for the same offense.

§ 49. Each house shall keep a journal of its proceedings, and the yeas and nays on any question shall be taken and entered on the journal at the request of one-sixth of those present.

§ 50. The sessions of each house and of the committee of the whole shall be open unless the business is such as ought to be kept secret.

§ 51. Neither house shall, without the consent of the other, adjourn for more than three days nor to any other place than that

in which the two houses shall be sitting, except in case of epidemic, pestilence or other great danger.

§ 52. The Senate and House of Representatives jointly shall be designated as the Legislative Assembly of the State of North Dakota.

§ 53. The Legislative Assembly shall meet at the seat of government at 12 o'clock noon on the first Tuesday after the first Monday in January, in the year next following the election of the members thereof.

§ 54. In all elections to be made by the Legislative Assembly, or either house thereof, the members shall vote *viva voce*, and their votes shall be entered in the journal.

§ 55. The sessions of the Legislative Assembly shall be biennial, except as otherwise provided in this Constitution.

§ 56. No regular session of the Legislative Assembly shall exceed sixty days, except in case of impeachment, but the first session of the Legislative Assembly may continue for a period of one hundred and twenty days.

§ 57. Any bill may originate in either house of the Legislative Assembly, and a bill passed by one house may be amended by the other.

§ 58. No law shall be passed, except by a bill adopted by both houses, and no bill shall be so altered and amended on its passage through either house as to change its original purpose.

§ 59. The enacting clause of every law shall be as follows: Be it enacted by the Legislative Assembly of the State of North Dakota.

§ 60. No bill for the appropriation of money, except for the expenses of the government, shall be introduced after the fortieth day of the session, except by unanimous consent of the house in which it is sought to be introduced.

§ 61. No bill shall embrace more than one subject, which shall be expressed in its title, but a bill which violates this provision shall be invalidated thereby only as to so much thereof as shall not be so expressed.

§ 62. The general appropriation bill shall embrace nothing but appropriations for the expenses of the executive, legislative and judicial departments of the State, interest on the public debt, and for public schools. All other appropriations shall be made by separate bills, each embracing but one subject.

§ 63. Every bill shall be read three several times, but the first and second readings, and those only, may be upon the same day; and the second reading may be by title of the bill unless a reading at length be demanded. The first and third readings shall be at length. No legislative day shall be shorter than the natural day.

§ 64. No bill shall be revised or amended, nor the provisions thereof extended or incorporated in any other bill by reference to its title only, but so much thereof as is revised, amended or ex-

tended or so incorporated shall be re-enacted and published at length.

§ 65. No bill shall become a law except by a vote of a majority of all the members-elect in each house, nor unless, on its final passage, the vote to be taken by yeas and nays, and the names of those voting be entered on the journal.

§ 66. The presiding officer of each house, shall, in the presence of the house over which he presides, sign all bills and joint resolutions passed by the Legislative Assembly; immediately before such signing their title shall be publicly read and the fact of signing shall be at once entered on the journal.

§ 67. No act of the Legislative Assembly shall take effect until July 1st, after the close of the session, unless in case of emergency (which shall be expressed in the preamble or body of the act) the Legislative assembly shall, by a vote of two-thirds of all the members present in each House, otherwise direct.

§ 68. The Legislative Assembly shall pass all laws necessary to carry into effect the provisions of this Constitution.

§ 69. The Legislative Assembly shall not pass local or special laws in any of the following enumerated cases, that is to say:

1. For granting divorces.
2. Laying out, opening, altering or working roads or highways, vacating roads, town plats, streets, alleys or public grounds.
3. Locating or changing county seats.
4. Regulating county or township affairs.
5. Regulating the practice of courts of justice.
6. Regulating the jurisdiction and duties of justices of the peace, police magistrates or constables.
7. Changing the rules of evidence in any trial or inquiry.
8. Providing for changes of venue in civil or criminal cases.
9. Declaring any person of age.
10. For limitation of civil actions, or giving effect to informal or invalid deeds.
11. Summoning or impanneling grand or petit juries
12. Providing for the management of common schools.
13. Regulating the rate of interest on money.
14. The opening or conducting of any election or designating the place of voting.
15. The sale or mortgage of real estate belonging to minors or others under disability.
16. Chartering or licensing ferries, toll bridges or toll roads.
17. Remitting fines, penalties or forfeitures.
18. Creating, increasing or decreasing fees, percentages or allowances of public officers.
19. Changing the law of descent.
20. Granting to any corporation, association or individual the right to lay down railroad tracks, or any special or exclusive privilege, immunity or franchise whatever.
21. For the punishment of crimes.

22. Changing the names of persons or places.
 23. For the assessment or collection of taxes.
 24. Affecting estates of deceased persons, minors or others under legal disabilities.
 25. Extending the time for the collection of taxes.
 26. Refunding money into the state treasury.
 27. Relinquishing or extinguishing in whole or in part the indebtedness, liability or obligation of any corporation or person to this State, or to any municipal corporation therein.
 28. Legalizing, except as against the State, the unauthorized or invalid act of any officer.
 29. Exempting property from taxation.
 30. Restoring to citizenship persons convicted of infamous crimes.
 31. Authorizing the creation, extension or impairing of liens.
 32. Creating offices, or prescribing the powers or duties of officers in counties, cities, townships, election or school districts, or authorizing the adoption or legitimation of children.
 33. Incorporation of cities, towns or villages, or changing or amending the charter of any town, city or village.
 34. Providing for the election of members of the board of supervisors in townships, incorporated towns or cities.
 35. The protection of game or fish.
- § 70. In all other cases where a general law can be made applicable, no special law shall be enacted; nor shall the Legislative Assembly indirectly enact such special or local law by the partial repeal of a general law; but laws repealing local or special acts may be passed.

ARTICLE III.

EXECUTIVE DEPARTMENT.

§ 71. The executive power shall be vested in a Governor, who shall reside at the seat of government and shall hold his office for the term of two years and until his successor is elected and duly qualified.

§ 72. A Lieutenant Governor shall be elected at the same time and for the same term as the Governor. In case of the death, impeachment, resignation, failure to qualify, absence from the State, removal from office, or the disability of the Governor, the powers and duties of the office for the residue of the term, or until he shall be acquitted or the disability removed, shall devolve upon the Lieutenant Governor.

§ 73. No person shall be eligible to the office of Governor or Lieutenant Governor unless he be a citizen of the United States, and a qualified elector of the State, who shall have attained the age of thirty years, and who shall have resided five years next preceding the election within the State or Territory, nor shall he be eligible to any other office during the term for which he shall have been elected.

§ 74. The Governor and Lieutenant Governor shall be elected by the qualified electors of the State at the time and places of choosing members of the Legislative Assembly. The persons having the highest number of votes for Governor and Lieutenant Governor respectively shall be declared elected, but if two or more shall have an equal and highest number of votes for Governor or Lieutenant Governor, the two houses of the Legislative Assembly at its next regular session shall forthwith, by joint ballot, choose one of such persons for said office. The returns of the election for Governor and Lieutenant Governor shall be made in such manner as shall be prescribed by law.

§ 75. The Governor shall be commander-in-chief of the military and naval forces of the State, except when they shall be called into the service of the United States, and may call out the same to execute the laws, suppress insurrection and repel invasion. He shall have power to convene the Legislative Assembly on extraordinary occasions. He shall at the commencement of each session communicate to the Legislative Assembly by message, information of the condition of the State, and recommend such measures as he shall deem expedient. He shall transact all necessary business with the officers of the government, civil and military. He shall expedite all such measures as may be resolved upon by the Legislative Assembly and shall take care that the laws be faithfully executed.

§ 76. The Governor shall have power to remit fines and forfeitures, to grant reprieves, commutations and pardons after conviction, for all offenses except treason and cases of impeachment; but the Legislative Assembly may by law regulate the manner in which the remission of fines, pardons, commutations and reprieves may be applied for. Upon conviction for treason he shall have power to suspend the execution of sentence until the case shall be reported to the Legislative Assembly at its next regular session, when the next Legislative Assembly shall either pardon or commute the sentence, direct the execution of the sentence or grant further reprieve. He shall communicate to the Legislative Assembly at each regular session each case of remission of fine, reprieve, commutation or pardon granted by him, stating the name of the convict, the crime for which he was convicted, the sentence and its date, and the date of the remission, commutation, pardon or reprieve, with his reasons for granting the same.

§ 77. The Lieutenant Governor shall be President of the Senate, but shall have no vote unless they be equally divided. If, during a vacancy in the office of Governor, the Lieutenant Governor shall be impeached, displaced, resign or die, or from mental or physical disease, or otherwise become incapable of performing the duties of his office, the Secretary of State shall act as Governor until the vacancy shall be filled or the disability removed.

§ 78. When any office shall from any cause become vacant, and no mode is provided by the Constitution or law for filling such

vacancy, the Governor shall have power to fill such vacancy by appointment.

§ 79. Every bill which shall have passed the Legislative Assembly shall, before it becomes a law, be presented to the Governor. If he approve, he shall sign, but if not, he shall return it with his objections, to the house in which it originated, which shall enter the objections at large upon the journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of the members-elect shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if it be approved by two-thirds of the members-elect, it shall become a law; but in all such cases the vote of both houses shall be determined by the yeas and nays, and the names of the members voting for and against the bill shall be entered upon the journal of each house respectively. If any bill shall not be returned by the Governor within three days (Sundays excepted) after it shall have been presented to him, the same shall be a law unless the Legislative Assembly, by its adjournment, prevent its return, in which case it shall be a law unless he shall file the same with his objections, in the office of the Secretary of State, within fifteen days after such adjournment.

§ 80. The Governor shall have power to disapprove of any item or items, or part or parts of any bill making appropriations of money or property embracing distinct items, and the part or parts of the bill approved shall be the law, and the item or items, and part or parts disapproved shall be void, unless enacted in the following manner: If the Legislative Assembly be in session he shall transmit to the house in which the bill originated a copy of the item or items, or part or parts thereof disapproved, together with his objections thereto, and the items or parts objected to shall be separately reconsidered, and each item or part shall then take the same course as is prescribed for the passage of bills over the executive veto.

§ 81. Any Governor of this State who asks, receives or agrees to receive any bribe upon any understanding that his official opinion, judgment or action shall be influenced thereby, or who gives or offers, or promises his official influence in consideration that any member of the Legislative Assembly shall give his official vote or influence on an particular side of any question or matter upon which he may be required to act in his official capacity, or who menaces any member by the threatened use of his veto power, or who offers or promises any member that he, the said Governor, will appoint any particular person or persons to any office created or thereafter to be created, in consideration that any member shall give his official vote or influence on any matter pending or thereafter to be introduced into either house of said Legislative Assembly, or who threatens any member that he, the said Governor, will remove any person or persons from office or position with intent in any manner to influence the action of said member, shall be

punished in the manner now, or that may hereafter, be provided by law, and upon conviction thereof shall forfeit all right to hold or exercise any office of trust or honor in this State.

§ 82. There shall be chosen by the qualified electors of the State at the times and places of choosing members of the Legislative Assembly, a Secretary of State, Auditor, Treasurer, Superintendent of Public Instruction, Commissioner of Insurance, three Commissioners of Railroads, an Attorney General and one Commissioner of Agriculture and Labor, who shall have attained the age of twenty-five years, shall be a citizen of the United States, and shall have the qualifications of state electors. They shall severally hold their offices at the seat of government, for the term of two years and until their successors are elected and duly qualified, but no person shall be eligible to the office of treasurer for more than two consecutive terms.

§ 83. The power and duties of the Secretary of State, Auditor, Treasurer, Superintendent of Public Instruction, Commissioner of Insurance, Commissioners of Railroads, Attorney General, and Commissioner of Agriculture and Labor, shall be as prescribed by law.

§ 84. Until otherwise provided by law, the Governor shall receive an annual salary of \$3,000; the Lieutenant Governor shall receive an annual salary of \$1,000; the Secretary of State, Auditor, Treasurer, Superintendent of Public Instruction, Commissioner of Insurance, Commissioners of Railroads and Attorney General shall each receive an annual salary of \$2,000; the salary of the Commissioner of Agriculture and Labor shall be as prescribed by law, but the salaries of any of the said officers shall not be increased or diminished during the period for which they shall have been elected, and all fees and profits arising from any of the said offices shall be covered into the State Treasury.

ARTICLE IV.

JUDICIAL DEPARTMENT.

§ 85. The judicial power of the State of North Dakota shall be vested in a Supreme Court, district courts, county courts, justices of the peace, and in such other courts as may be created by law for cities, incorporated towns and villages.

§ 86. The Supreme Court, except as otherwise provided in this Constitution, shall have appellate jurisdiction only, which shall be co-extensive with the State, and shall have a general superintending control over all inferior courts under such regulations and limitations as may be prescribed by law.

§ 87. It shall have power to issue writs of *habeas corpus*, *mandamus*, *quo warranto*, *certiorari*, injunction, and such other original and remedial writs as may be necessary to the proper exercise of its jurisdiction, and shall have authority to hear and determine the same; *Provided, however*, That no jury trial shall be

allowed in said Supreme Court, but in proper cases questions of fact may be sent by said court to a district court for trial.

§ 88. Until otherwise provided by law three terms of the Supreme Court shall be held each year, one at the seat of government, one at Fargo, in the county of Cass, and one at Grand Forks, in the county of Grand Forks.

§ 89. The Supreme Court shall consist of three judges, at majority of whom shall be necessary to form a quorum or pronounce a decision, but one or more of said judges may adjourn the court from day to day or to a day certain.

§ 90. The judges of the Supreme Court shall be elected by the qualified electors of the State at large, and except as may be otherwise provided herein for the first election for judges under this Constitution, said judges shall be elected at general elections.

§ 91. The term of office of the judges of the Supreme Court, except in this article otherwise provided, shall be six years, and they shall hold their offices until their successors are duly qualified.

§ 92. The judges of the Supreme Court shall, immediately after the first election under this Constitution, be classified by lot so that one shall hold his office for the term of three years, one for the term of five years, and one for the term of seven years from the first Monday in December, A. D. 1889. The lots shall be drawn by the judges, who shall for that purpose assemble at the seat of government, and they shall cause the result thereof to be certified to the Secretary of the Territory and filed in his office, unless the Secretary of State of North Dakota shall have entered upon the duties of his office, in which event said certification shall be filed therein. The judge having the shortest term to serve, not holding his office by election or appointment to fill a vacancy, shall be chief justice and shall preside at all terms of the Supreme Court and in case of his absence the judge having in like manner the next shortest term to serve shall preside in his stead.

§ 93. There shall be a clerk and also a reporter of the Supreme Court, who shall be appointed by the judges thereof, and who shall hold their offices during the pleasure of said judges, and whose duties and emoluments shall be prescribed by law and by rules of the Supreme Court not inconsistent with law. The Legislative Assembly shall make provision for the publication and distribution of the decisions of the Supreme Court and for the sale of the published volumes thereof.

§ 94. No person shall be eligible to the office of judge of the Supreme Court unless he be learned in the law, be at least thirty years of age and a citizen of the United States, nor unless he shall have resided in this State or the Territory of Dakota three years next preceding his election.

§ 95. Whenever the population of the State of North Dakota shall equal 600,000 the Legislative Assembly shall have the power to increase the number of the judges of the Su-

preme Court to five, in which event a majority of said court, as thus increased, shall constitute a quorum.

§ 96. No duties shall be imposed by law upon the Supreme Court or any of the judges thereof, except such as are judicial, nor shall any of the judges thereof exercise any power of appointment except as herein provided.

§ 97. The style of all process shall be "The State of North Dakota." All prosecutions shall be carried on in the name and by the authority of the State of North Dakota, and conclude "against the peace and dignity of the State of North Dakota."

§ 98. Any vacancy happening by death, resignation or otherwise in the office of judge of the Supreme Court shall be filled by appointment, by the Governor, which appointment shall continue until the first general election thereafter, when said vacancy shall be filled by election.

§ 99. The judges of the Supreme and district courts shall receive such compensation for their services as may be prescribed by law, which compensation shall not be increased or diminished during the term for which a judge shall have been elected.

§ 100. In case a judge of the Supreme Court shall be in any way interested in a cause brought before said court, the remaining judges of said court shall call one of the district judges to sit with them on the hearing of said cause.

§ 101. When a judgment or decree is reversed or confirmed by the Supreme Court, every point fairly arising upon the record of the case shall be considered and decided, and the reasons therefor shall be concisely stated in writing, signed by the judges concurring, filed in the office of the clerk of the Supreme Court and preserved with a record of the case. Any judge dissenting therefrom may give the reasons of his dissent in writing over his signature.

§ 102. It shall be the duty of the court to prepare a syllabus of the points adjudicated in each case, which shall be concurred in by a majority of the judges thereof, and it shall be prefixed to the published reports of the case.

§ 103. The district court shall have original jurisdiction, except as otherwise provided in this Constitution, of all causes both at law and equity, and such appellate jurisdiction as may be conferred by law. They and the judges thereof shall also have jurisdiction and power to issue writs of *habeas corpus*, *quo warranto*, *certiorari*, injunction and other original and remedial writs, with authority to hear and determine the same.

§ 104. The State shall be divided into six judicial districts, in each of which there shall be elected at general elections, by the electors thereof, one judge of the district court therein, whose term of office shall be four years from the first Monday in January succeeding his election and until his successor is duly qualified. This section shall not be construed as governing the first election of district judges under this Constitution.

§ 105. Until otherwise provided by law, said districts shall be constituted as follows:

District No. One shall consist of the counties of Pembina, Cavalier, Walsh, Nelson and Grand Forks.

District No. Two shall consist of the counties of Ramsey, Towner, Benson, Pierce, Rolette, Bottineau, McHenry, Church, Renville, Ward, Stevens, Mountraille, Garfield, Flannery and Buford.

District No. Three shall consist of the counties of Cass, Steele and Traill.

District No. Four shall consist of the counties of Richland, Ransom, Sargent, Dickey and McIntosh.

District No. Five shall consist of the counties of Logan, La-Moure, Stutsman, Barnes, Wells, Foster, Eddy and Griggs.

District No. Six shall consist of the counties of Burleigh, Emmons, Kidder, Sheridan, McLean, Morton, Oliver, Mercer, Williams, Stark, Hettinger, Bowman, Billings, McKenzie, Dunn, Wallace and Allred, and that portion of the Sioux Indian Reservation lying north of the seventh standard parallel.

§ 106. The Legislative Assembly may whenever two-thirds of the members of each house shall concur therein, but not oftener than once in four years, increase the number of said judicial districts and the judges thereof; such districts shall be formed from compact territory and bounded by county lines, but such increase or change in the boundaries of the districts shall not work the removal of any judge from his office during the term for which he may have been elected or appointed.

§ 107. No person shall be eligible to the office of district judge, unless he be learned in the law, be at least twenty-five years of age, and a citizen of the United States, nor unless he shall have resided within the State or Territory of Dakota at least two years next preceding his election, nor unless he shall at the time of his election be an elector within the judicial district for which he is elected.

§ 108. There shall be a clerk of the district court in each organized county in which a court is holden who shall be elected by the qualified electors of the county, and shall hold his office for the same term as other county officers. He shall receive such compensation for his services as may be prescribed by law.

§ 109. Writs of error and appeals may be allowed from the decisions of the district courts to the Supreme Court under such regulations as may be prescribed by law.

§ 110. There shall be established in each county a county court, which shall be a court of record, open at all times and holden by one judge, elected by the electors of the county, and whose term of office shall be two years.

§ 111. The county court shall have exclusive original jurisdiction in probate and testamentary matters, the appointment of administrators and guardians, the settlement of the accounts of executors, administrators and guardians, the sale of lands by ex-

ecutors, administrators and guardians, and such other probate jurisdiction as may be conferred by law; *Provided*, That whenever the voters of any county having a population of two thousand or over shall decide by a majority vote that they desire the jurisdiction of said court increased above that limited by this Constitution, then said county court shall have concurrent jurisdiction with the district court in all civil actions where the amount in controversy does not exceed \$1,000, and in all criminal actions below the grade of felony, and in case it is decided by the voters of any county to so increase the jurisdiction of said county court, the jurisdiction in case of misdemeanors arising under state laws which may have been conferred upon police magistrates, shall cease. The qualifications of the judge of the county court in counties where the jurisdiction of said court shall have been increased shall be the same as those of the district judge, except that he shall be a resident of the county at the time of his election, and said county judge shall receive such salary for his services as may be provided by law. In case the voters of any county decide to increase the jurisdiction of said county courts, then such jurisdiction as thus increased shall remain until otherwise provided by law.

§ 112. The Legislative Assembly shall provide by law for the election of justices of the peace in each organized county within the State. But the number of said justices to be elected in each organized county shall be limited by law to such a number as shall be necessary for the proper administration of justice. The justices of the peace herein provided for shall have concurrent jurisdiction with the district court in all civil actions when the amount in controversy, exclusive of costs, does not exceed \$200, and in counties where no county court with criminal jurisdiction exists they shall have such jurisdiction to hear and determine cases of misdemeanor as may be provided by law, but in no case shall said justices of the peace have jurisdiction when the boundaries of or title to real estate shall come in question. The Legislative Assembly shall have power to abolish the office of justice of the peace and confer that jurisdiction upon judges of county courts or elsewhere.

§ 113. The Legislative Assembly shall provide by law for the election of police magistrates in cities, incorporated towns and villages, who in addition to their jurisdiction of all cases arising under the ordinances of said cities, towns and villages, shall be ex-officio justices of the peace of the county in which said cities, towns and villages may be located. And the Legislative Assembly may confer upon said police magistrates the jurisdiction to hear, try and determine all cases of misdemeanors, and the prosecutions therein shall be by information.

§ 114. Appeals shall lie from the county court, final decisions of justices of the peace and police magistrates in such cases and pursuant to such regulations as may be prescribed by law.

§ 115. The time of holding court in the several counties of a district shall be as prescribed by law, but at least two terms of the district court shall be held annually in each organized county, and the Legislative Assembly shall make provisions for attaching unorganized counties or territories to organized counties for judicial purposes.

§ 116. Judges of the district courts may hold court in other districts than their own under such regulations as shall be prescribed by law.

§ 117. No judge of the Supreme or district court shall act as attorney or counsellor at law.

§ 118. Until the Legislative Assembly shall provide by law for fixing the terms of court, the judges of the Supreme and district courts shall fix the terms thereof.

§ 119. No judge of the Supreme or district courts shall be elected or appointed to any other than judicial offices or to be eligible thereto during the term for which he was elected or appointed such judge. All votes or appointments for either of them for any elective or appointive office except that of judge of the Supreme Court or district court, given by the Legislative Assembly or the people, shall be void.

§ 120. Tribunals of conciliation may be established with such powers and duties as shall be prescribed by law, or the powers and duties of such may be conferred upon other courts of justice; but such tribunals or other courts when sitting as such, shall have no power to render judgment to be obligatory on the parties, unless they voluntarily submit their matters of difference and agree to abide the judgment of such tribunals or courts.

ARTICLE V.

ELECTIVE FRANCHISE.

§ 121. Every male person of the age of twenty-one years or upwards belonging to either of the following classes, who shall have resided in the State one year, in the county six months and in the precinct ninety days next preceding any election, shall be deemed a qualified elector at such election:

First. Citizens of the United States.

Second. Persons of foreign birth who shall have declared their intention to become citizens, one year and not more than six years prior to such election, conformably to the naturalization laws of the United States.

Third. Civilized persons of Indian descent who shall have severed their tribal relation two years next preceding such election.

§ 122. The Legislative Assembly shall be empowered to make further extensions of suffrage hereafter, at its discretion to all citizens of mature age and sound mind, not convicted of crime without regard to sex; but no law extending or restricting the right of suffrage shall be in force until adopted by a majority of the electors of the State voting at a general election.

§ 123. Electors shall in all cases except treason, felony, breach of the peace or illegal voting, be privileged from arrest on the days of election during their attendance at, going to and returning from such election, and no elector shall be obliged to perform military duty on the day of election, except in time of war or public danger.

§ 124. The general elections of the State shall be biennial, and shall be held on the first Tuesday after the first Monday in November; *Provided*, That the first general election under this Constitution shall be held on the first Tuesday after the first Monday in November, A. D. 1890.

§ 125. No elector shall be deemed to have lost his residence in this State by reason of his absence on business of the United States or of this State, or in the military or naval service of the United States.

§ 126. No soldier, seaman or marine in the army or navy of the United States shall be deemed a resident of this State in consequence of his being stationed therein.

§ 127. No person who is under guardianship, *non compos mentis* or insane, shall be qualified to vote at any election, nor shall any person convicted of treason or felony, unless restored to civil rights.

§ 128. Any woman having the qualifications enumerated in Section 121 of this article as to age, residence and citizenship, and including those now qualified by the laws of the Territory, may vote for all school officers, and upon all questions pertaining solely to school matters, and be eligible to any school office.

§ 129. All elections by the people shall be by secret ballot, subject to such regulations as shall be provided by law.

ARTICLE VI.

MUNICIPAL CORPORATIONS.

§ 130. The Legislative Assembly shall provide by general law for the organization of municipal corporations, restricting their powers as to levying taxes and assessments, borrowing money and contracting debts; and money raised by taxation, loan or assessment for any purpose shall not be diverted to any other purpose except by authority of law.

ARTICLE VII.

CORPORATIONS OTHER THAN MUNICIPAL.

§ 131. No charter of incorporation shall be granted, changed or amended by special law, except in the case of such municipal, charitable, educational, penal or reformatory corporations as may be under the control of the State; but the Legislative Assembly shall provide by general laws for the organization of all corporations hereafter to be created, and any such law, so passed, shall be subject to future repeal or alteration.

§ 132. All existing charters or grants of special or exclusive privileges, under which a *bona fide* organization shall not have taken place and business been commenced in good faith at the time this Constitution takes effect, shall thereafter have no validity.

§ 133. The Legislative Assembly shall not remit the forfeiture of the charter to any corporation now existing, nor alter or amend the same, nor pass any other general or special law for the benefit of such corporation, except upon the condition that such corporation shall thereafter hold its charter subject to the provisions of this Constitution.

§ 134. The exercise of the right of eminent domain shall never be abridged, or so construed as to prevent the Legislative Assembly from taking the property and franchises of incorporated companies and subjecting them to public use, the same as the property of individuals; and the exercise of the police power of this State shall never be abridged, or so construed as to permit corporations to conduct their business in such a manner as to infringe the equal rights of individuals or the general well-being of the State.

§ 135. In all elections for directors or managers of a corporation, each member or shareholder may cast the whole number of his votes for one candidate, or distribute them upon two or more candidates, as he may prefer.

§ 136. No foreign corporation shall do business in this State without having one or more places of business and an authorized agent or agents in the same, upon whom process may be served.

§ 137. No corporation shall engage in any business other than that expressly authorized in its charter.

§ 138. No corporation shall issue stock or bonds except for money, labor done, or money or property actually received; and all fictitious increase of stock or indebtedness shall be void. The stock and indebtedness of corporations shall not be increased except in pursuance of general law, nor without the consent of the persons holding the larger amount in value of the stock first obtained at a meeting to be held after sixty days' notice given in pursuance of law.

§ 139. No law shall be passed by the Legislative Assembly granting the right to construct and operate a street railroad, telegraph, telephone or electric light plant within any city, town or incorporated village, without requiring the consent of the local authorities having control of the street or highway proposed to be occupied for such purposes.

§ 140. Every railroad corporation organized and doing business in this State, under the laws or authority thereof, shall have and maintain a public office or place in the State for the transaction of its business, where transfers of its stock shall be made and in which shall be kept for public inspection, books in which shall be recorded the amount of capital stock subscribed, and by whom, the names of the owners of its stock and the amount owned

by them respectively; the amount of stock paid in and by whom, and the transfers of said stock; the amount of its assets and liabilities and the names and place of residence of its officers. The directors of every railroad corporation shall annually make a report, under oath, to the auditor of public accounts, or some officer or officers to be designated by law, of all their acts and doings, which report shall include such matters relating to railroads as may be prescribed by law, and the Legislative Assembly shall pass laws enforcing by suitable penalties the provisions of this section; *Provided*, The provisions of this section shall not be so construed as to apply to foreign corporations.

§ 141. No railroad corporation shall consolidate its stock, property or franchises with any other railroad corporation owning a parallel or competing line; and in no case shall any consolidation take place except upon public notice given at least sixty days to all stockholders, in such manner as may be provided by law. Any attempt to evade the provisions of this section by any railroad corporation, by lease or otherwise, shall work a forfeiture of its charter.

§ 142. Railways heretofore constructed, or that may hereafter be constructed, in this State are hereby declared public highways, and all railroad, sleeping car, telegraph, telephone, and transportation companies of passengers, intelligence and freight, are declared to be common carriers and subject to legislative control; and the Legislative Assembly shall have power to enact laws regulating and controlling the rates of charges for the transportation of passengers, intelligence and freight, as such common carriers, from one point to another in this State; *Provided*, That appeal may be had to the courts of this State from the rates so fixed; but the rates fixed by the Legislative Assembly or Board of Railroad Commissioners shall remain in full force pending the decision of the courts.

§ 143. Any association or corporation organized for the purpose shall have the right to construct and operate a railroad between any points within this State, and to connect at the state line with the railroads of other states. Every railroad company shall have the right with its road to intersect, connect with or cross any other; and shall receive and transport each other's passengers, tonnage and cars, loaded or empty, without delay or discrimination.

§ 144. The term "corporation," as used in this article, shall not be understood as embracing municipalities or political subdivisions of the State unless otherwise expressly stated, but it shall be held and construed to include all associations and joint stock companies having any of the powers or privileges of corporations not possessed by individuals or partnerships.

§ 145. If a general banking law be enacted, it shall provide for the registry and countersigning by an officer of the State, of all notes or bills designed for circulation, and that ample security to

the full amount thereof shall be deposited with the State Treasurer for the redemption of such notes or bills.

§ 146. Any combination between individuals, corporations, associations, or either, having for its object or effect the controlling of the price of any product of the soil or any article of manufacture or commerce, or the cost of exchange or transportation, is prohibited and hereby declared unlawful and against public policy; and any and all franchises heretofore granted or extended, or that may hereafter be granted or extended in this State, whenever the owner or owners thereof violate this article shall be deemed annulled and become void.

ARTICLE VIII.

EDUCATION.

§ 147. A high degree of intelligence, patriotism, integrity and morality on the part of every voter in a government by the people being necessary in order to insure the continuance of that government and the prosperity and happiness of the people, the Legislative Assembly shall make provision for the establishment and maintenance of a system of public schools which shall be opened to all children of the State of North Dakota and free from sectarian control. This legislative requirement shall be irrevocable without the consent of the United States and the people of North Dakota.

§ 148. The Legislative Assembly shall provide, at its first session after the adoption of this Constitution, for a uniform system for free public schools throughout the State; beginning with the primary and extending through all grades up to and including the normal and collegiate course.

§ 149. In all schools instruction shall be given as far as practicable in those branches of knowledge that tend to impress upon the mind the vital importance of truthfulness, temperance, purity, public spirit, and respect for honest labor of every kind.

§ 150. A superintendent of schools for each county shall be elected every two years, whose qualifications, duties, powers and compensation shall be fixed by law.

§ 151. The Legislative Assembly shall take such other steps as may be necessary to prevent illiteracy, secure a reasonable degree of uniformity in course of study, and to promote industrial, scientific and agricultural improvements.

§ 152. All colleges, universities and other educational institutions, for the support of which lands have been granted to this State, or which are supported by a public tax, shall remain under the absolute and exclusive control of the State. No money raised for the support of the public schools of the State shall be appropriated to or used for the support of any sectarian school.

ARTICLE IX.

SCHOOL AND PUBLIC LANDS.

§ 153. All proceeds of the public lands that have heretofore been, or may hereafter be granted by the United States for the support of the common schools in this State; all such per centum as may be granted by the United States on the sale of public lands; the proceeds of property that shall fall to the State by escheat; the proceeds of all gifts and donations to the State for common schools, or not otherwise appropriated by the terms of the gift, and all other property otherwise acquired for common schools, shall be and remain a perpetual fund for the maintenance of the common schools of the State. It shall be deemed a trust fund, the principal of which shall forever remain inviolate and may be increased but never diminished. The State shall make good all losses thereof.

§ 154. The interest and income of this fund together with the net proceeds of all fines for violation of state laws, and all other sums which may be added thereto by law, shall be faithfully used and applied each year for the benefit of the common schools of the State, and shall be for this purpose apportioned among and between all the several common school corporations of the State in proportion to the number of children in each of school age, as may be fixed by law, and no part of the fund shall ever be diverted even temporarily, from this purpose or used for any other purpose whatever than the maintenance of common schools for the equal benefit of all the people of the State; *Provided, however,* That if any portion of the interest or income aforesaid be not expended during any year, said portion shall be added to and become a part of the school fund.

§ 155. After one year from the assembling of the first Legislative Assembly the lands granted to the State from the United States for the support of the common schools, may be sold upon the following conditions and no other: No more than one-fourth of all such lands shall be sold within the first five years after the same become saleable by virtue of this section. No more than one-half of the remainder within ten years after the same become saleable as aforesaid. The residue may be sold at any time after the expiration of said ten years. The Legislative Assembly shall provide for the sale of all school lands subject to the provisions of this article. The coal lands of the State shall never be sold, but the Legislative Assembly may by general laws provide for leasing the same. The words "coal lands" shall include lands bearing lignite coal.

§ 156. The Superintendent of Public Instruction, Governor, Attorney General, Secretary of State and State Auditor shall constitute a board of commissioners, which shall be denominated the "Board of University and School Lands," and, subject to the provisions of this article and any law that may be passed by the Leg-

islative Assembly, said board shall have control of the appraisement, sale, rental and disposal of all school and university lands, and shall direct the investment of the funds arising therefrom in the hands of the State Treasurer, under the limitations of Section 160 of this article.

§ 157. The county superintendent of common schools, the chairman of the county board, and the county auditor shall constitute boards of appraisal and under the authority of the State Board of University and School Lands shall appraise all school lands within their respective counties which they may from time to time recommend for sale at their actual value under the prescribed terms and shall first select and designate for sale the most valuable lands.

§ 158. No land shall be sold for less than the appraised value and in no case for less than \$10 per acre. The purchaser shall pay one-fifth of the price in cash and the remaining four-fifths as follows: One-fifth in five years, one-fifth in ten years, one-fifth in fifteen years and one-fifth in twenty years with interest at the rate of not less than six per centum payable annually in advance. All sales shall be held at the county seat of the county in which the land to be sold is situate, and shall be at public auction and to the highest bidder, after sixty days' advertisement of the same in a newspaper of general circulation in the vicinity of the lands to be sold, and one at the seat of government. Such lands as shall not have been specially subdivided shall be offered in tracts of one-quarter section, and those so subdivided in the smallest subdivisions. All lands designated for sale and not sold within two years after appraisal shall be reappraised before they are sold. No grant or patent for any such lands shall issue until payment is made for the same; *Provided*, That the lands contracted to be sold by the State shall be subject to taxation from the date of such contract. In case the taxes assessed against any of said lands for any year remain unpaid until the first Monday in October of the following year, then and thereupon the contract of sale for such lands shall become null and void.

§ 159. All land, money or other property donated, granted or received from the United States or any other source for a University, School of Mines, Reform School, Agricultural College, Deaf and Dumb Asylum, Normal School or other educational or charitable institution or purpose, and the proceeds of all such lands and other property so received from any source, shall be and remain perpetual funds, the interest and income of which, together with the rents of all such lands as may remain unsold, shall be inviolably appropriated and applied to the specific objects of the original grants or gifts. The principal of every such fund may be increased but shall never be diminished, and the interest and income only shall be used. Every such fund shall be deemed

a trust fund held by the State, and the State shall make good all losses thereof.

§ 160. All lands mentioned in the preceding section shall be appraised and sold in the same manner and under the same limitations and subject to all the conditions as to price and sale as provided above for the appraisal and sale of lands for the benefit of common schools; but a distinct and separate account shall be kept by the proper officers of each of said funds; *Provided*, That the limitations as to the time in which school land may be sold shall apply only to lands granted for the support of common schools.

§ 161. The Legislative Assembly shall have authority to provide by law for the leasing of lands granted to the State for educational and charitable purposes; but no such law shall authorize the leasing of said lands for a longer period than five years. Said lands shall only be leased for pasturage and meadow purposes and at a public auction after notice as heretofore provided in case of sale; *Provided*, That all of said school lands now under cultivation may be leased, at the discretion and under the control of the Board of University and School Lands, for other than pasturage or meadow purposes until sold. All rents shall be paid in advance.

§ 162. The moneys of the permanent school fund and other educational funds shall be invested only in bonds of school corporations within the State, bonds of the United States, bonds of the State of North Dakota or in first mortgages on farm lands in the State, not exceeding in amount one-third of the actual value of any subdivision on which the same may be loaned, such value to be determined by the board of appraisers of school lands.

§ 163. No law shall ever be passed by the Legislative Assembly granting to any person, corporation or association any privileges by reason of the occupation, cultivation or improvement of any public lands by said person, corporation or association subsequent to the survey thereof by the general government. No claim for the occupation, cultivation or improvement of any public lands shall ever be recognized, nor shall such occupation, cultivation or improvement of any public lands ever be used to diminish, either directly or indirectly, the purchase price of said lands.

§ 164. The Legislative Assembly shall have authority to provide by law for the sale or disposal of all public lands that have been heretofore, or may hereafter be granted by the United States to the State for purposes other than set forth and named in Sections 153 and 159 of this article. And the Legislative Assembly, in providing for the appraisal, sale, rental and disposal of the same, shall not be subject to the provisions and limitations of this article.

§ 165. The Legislative Assembly shall pass suitable laws for the safe keeping, transfer and disbursement of the State school funds; and shall require all officers charged with the same or the safe keeping thereof to give ample bonds for all moneys and funds

received by them, and if any of said officers shall convert to his own use in any manner or form, or shall loan with or without interest or shall deposit in his own name, or otherwise than in the name of the State of North Dakota, or shall deposit in any banks or with any person or persons, or exchange for other funds or property any portion of the school funds aforesaid, or purposely allow any portion of the same to remain in his own hands uninvested, except in the manner prescribed by law, every such act shall constitute an embezzlement of so much of the aforesaid school funds as shall be thus taken or loaned, or deposited, or exchanged, or withheld, and shall be a felony; and any failure to pay over, produce or account for, the State school funds or any part of the same entrusted to any such officer, as by law required or demanded, shall be held and be taken to be *prima facie* evidence of such embezzlement.

ARTICLE X.

COUNTY AND TOWNSHIP ORGANIZATION.

§ 166. The several counties in the Territory of Dakota lying north of the seventh standard parallel, as they now exist, are hereby declared to be counties of the State of North Dakota.

§ 167. The Legislative Assembly shall provide by general law for organizing new counties, locating the county seats thereof temporarily, and changing county lines, but no new county shall be organized, nor shall any organized county be so reduced as to include an area of less than twenty-four congressional townships, and containing a population of less than one thousand *bona fide* inhabitants. And in the organization of new counties and in changing the lines of organized counties and boundaries of congressional townships the natural boundaries shall be observed as nearly as may be.

§ 168. All changes in the boundaries of organized counties before taking effect shall be submitted to the electors of the county or counties to be effected thereby at a general election and be adopted by a majority of all the legal votes cast in each county at such election; and in case any portion of an organized county is stricken off and added to another, the county to which such portion is added shall assume and be holden for an equitable proportion of the indebtedness of the county so reduced.

§ 169. The Legislative Assembly shall provide by general law for changing county seats in organized counties, but it shall have no power to remove the county seat of any organized county.

§ 170. The Legislative Assembly shall provide by general law for township organization under which any county may organize, whenever a majority of all the legal voters of such county, voting at a general election shall so determine, and whenever any county shall adopt township organization, so much of this Constitution as provides for the management of the fiscal concerns of said county by the board of county commissioners may be dispensed with by

a majority vote of the people voting at any general election; and the affairs of said county may be transacted by the chairmen of the several township boards of said county, and such others as may be provided by law for incorporated cities, towns or villages within such county.

§ 171. In any county that shall have adopted a system of government by the chairmen of the several township boards, the question of continuing the same may be submitted to the electors of said county at a general election in such manner as may be provided by law, and if a majority of all the votes cast upon such question shall be against said system of government, then such system shall cease in said county and the affairs of said county shall then be transacted by a board of county commissioners as is now provided by the laws of the Territory of Dakota.

§ 172. Until the system of county government by the chairmen of the several township boards is adopted by any county the fiscal affairs of said county shall be transacted by a board of county commissioners. Said board shall consist of not less than three and nor more than five members whose terms of office shall be prescribed by law. Said board shall hold sessions for the transaction of county business as shall be provided by law.

§ 173. At the first general election held after the adoption of this Constitution, and every two years thereafter, there shall be elected in each organized county in the State, a county judge, clerk of court, register of deeds, county auditor, treasurer, sheriff and state's attorney, who shall be electors of the county in which they are elected, and who shall hold their office until their successors are elected and qualified. The Legislative Assembly shall provide by law for such other county, township and district officers as may be deemed necessary, and shall prescribe the duties and compensation of all county, township and district officers. The sheriff and treasurer of any county shall not hold their respective offices for more than four years in succession.

ARTICLE XI.

REVENUE AND TAXATION.

§ 174. The Legislative Assembly shall provide for raising revenue sufficient to defray the expenses of the State for each year, not to exceed in any one year four (4) mills on the dollar of the assessed valuation of all taxable property in the State, to be ascertained by the last assessment made for State and county purposes, and also a sufficient sum to pay the interest on the State debt.

§ 175. No tax shall be levied except in pursuance of law, and every law imposing a tax shall state distinctly the object of the same, to which only it shall be applied.

§ 176. Laws shall be passed taxing by uniform rule all property according to its true value in money, but the property of the United States and the State, county and municipal corporations, both real and personal, shall be exempt from taxation, and the

Legislative Assembly shall by a general law exempt from taxation property used exclusively for school, religious, cemetery or charitable purposes and personal property to any amount not exceeding in value two hundred dollars for each individual liable to taxation; but the Legislative Assembly may by law, provide for the payment of a per centum of gross earnings of railroad companies to be paid in lieu of all State, county, township and school taxes on property exclusively used in and about the prosecution of the business of such companies as common carriers, but no real estate of said corporations shall be exempted from taxation in the same manner, and on the same basis as other real estate is taxed, except roadbed, right-of-way, shops and buildings used exclusively in their business as common carriers, and whenever and so long as such law providing for the payment of a per centum on earnings shall be in force, that part of Section 179 of this article relating to assessment of railroad property shall cease to be in force.

§ 177. All improvements on land shall be assessed in accordance with Section 179, but plowing shall not be considered as an improvement or add to the value of land for the purpose of assessment.

§ 178. The power of taxation shall never be surrendered or suspended by any grant or contract to which the State or any county or other municipal corporation shall be a party.

§ 179. All property, except as hereinafter in this section provided, shall be assessed in the county, city, township, town, village or district in which it is situated, in the manner prescribed by law. The franchise, roadway, roadbed, rails and rolling stock of all railroads operated in this State shall be assessed by the State Board of Equalization at their actual value and such assessed valuation shall be apportioned to the counties, cities, towns, townships and districts in which said roads are located, as a basis for taxation of such property in proportion to the number of miles of railway laid in such counties, cities, towns, townships and districts.

§ 180. The Legislative Assembly may provide for the levy, collection and disposition of an annual poll tax of not more than one dollar and fifty cents (\$1.50) on every male inhabitant of this State over twenty-one and under fifty years of age, except paupers, idiots, insane persons and Indians not taxed.

§ 181. The Legislative Assembly shall pass all laws necessary to carry out the provisions of this article.

ARTICLE XII.

PUBLIC DEBT AND PUBLIC WORKS.

§ 182. The State may to meet casual deficits or failure in the revenue, or in case of extraordinary emergencies, contract debts, but such debts shall never in the aggregate exceed the sum of \$200,000, exclusive of what may be the debt of North Dakota at the time of the adoption of this Constitution. Every such debt

shall be authorized by law for certain purposes to be definitely mentioned therein, and every such law shall provide for levying an annual tax sufficient to pay the interest semi-annually, and the principal within thirty years from the passage of such law, and shall specially appropriate the proceeds of such tax to the payment of said principal and interest, and such appropriation shall not be repealed nor the tax discontinued until such debt, both principal and interest, shall have been fully paid. No debt in excess of the limit named shall be incurred except for the purpose of repelling invasion, suppressing insurrection, defending the State in time of war, or to provide for public defense in case of threatened hostilities; but the issuing of new bonds to refund existing indebtedness, shall not be construed to be any part or portion of said \$200,000.

§ 183. The debt of any county, township, city, town, school district or any other political subdivision, shall never exceed five (5) per centum upon the assessed value of the taxable property therein; *Provided*, That any incorporated city may, by a two-thirds vote, increase such indebtedness three (3) per centum on such assessed value beyond said (5) per cent. limit. In estimating the indebtedness which a city, county, township, school district or any other political subdivision may incur, the entire amount of existing indebtedness, whether contracted prior or subsequent to the adoption of this Constitution shall be included; *Provided, further*, That any incorporated city may become indebted in any amount not exceeding four (4) per centum on such assessed value without regard to the existing indebtedness of such city, for the purpose of constructing or purchasing water works for furnishing a supply of water to the inhabitants of such city, or for the purpose of constructing sewers, and for no other purpose whatever. All bonds or obligations in excess of the amount of indebtedness permitted by this Constitution, given by any city, county, township, town, school district, or any other political subdivision shall be void.

§ 184. Any city, county, township, town, school district, or any other political subdivision incurring indebtedness shall at or before the time of so doing, provide for the collection of an annual tax sufficient to pay the interest and also the principal thereof when due, and all laws or ordinances providing for the payment of the interest or principal of any debt shall be irrepealable until such debt is paid.

§ 185. Neither the State nor any county, city, township, town, school district or any other political subdivision shall loan or give its credit or make donations to or in aid of any individual, association or corporation, except for necessary support of the poor, nor subscribe to or become the owner of the capital stock of any association or corporation, nor shall the State engage in any work of internal improvement unless authorized by a two-thirds vote of the people.

§ 186. No money shall be paid out of the State Treasury except

upon appropriation by law and on warrant drawn by the proper officer, and no bills, claims, accounts or demands against the State, or any county or other political subdivision, shall be audited, allowed or paid until a full itemized statement in writing shall be filed with the officer or officers, whose duty it may be to audit the same.

§ 187. No bond or evidence of indebtedness of the State shall be valid unless the same shall have endorsed thereon a certificate, signed by the Auditor and Secretary of State, showing that the bond or evidence of debt is issued pursuant to law and is within the debt limit. No bond or evidence of debt of any county, or bond of any township or other political subdivision shall be valid unless the same have endorsed thereon a certificate signed by the county auditor, or other officer authorized by law to sign such certificate, stating that said bond, or evidence of debt, is issued pursuant to law and is within the debt limit.

ARTICLE XIII.

MILITIA.

§ 188. The militia of this State shall consist of all able-bodied male persons residing in the State, between the ages of eighteen and forty-five years, except such as may be exempted by the laws of the United States or of this State. Persons whose religious tenets or conscientious scruples forbid them to bear arms shall not be compelled to do so in times of peace, but shall pay an equivalent for a personal service.

§ 189. The militia shall be enrolled, organized, uniformed, armed and disciplined in such a manner as shall be provided by law, not incompatible with the Constitution or laws of the United States.

§ 190. The Legislative Assembly shall provide by law for the establishment of volunteer organizations of the several arms of the service, which shall be classed as active militia; and no other organized body of armed men shall be permitted to perform military duty in this State except the army of the United States, without the proclamation of the Governor of the State.

§ 191. All militia officers shall be appointed or elected in such a manner as the Legislative Assembly shall provide.

§ 192. The commissioned officers of the militia shall be commissioned by the Governor, and no commissioned officer shall be removed from office except by sentence of court martial, pursuant to law.

§ 193. The militia forces shall in all cases, except treason, felony or breach of the peace, be privileged from arrest during their attendance at musters, parades and elections of officers, and in going to and returning from the same.

ARTICLE XIV.

IMPEACHMENT AND REMOVAL FROM OFFICE.

§ 194. The House of Representative shall have the sole power of impeachment. The concurrence of a majority of all members elected shall be necessary to an impeachment.

§ 195. All impeachments shall be tried by the Senate. When sitting for that purpose the senators shall be upon oath or affirmation to do justice according to the law and evidence. No person shall be convicted without the concurrence of two-thirds of the members elected. When the Governor or Lieutenant Governor is on trial, the presiding Judge of the Supreme Court shall preside.

§ 196. The Governor and other State and judicial officers, except county judges, justices of the peace and police magistrates, shall be liable to impeachment for habitual drunkenness, crimes, corrupt conduct, or malfeasance or misdemeanor in office, but judgment in such cases shall not extend further than removal from office and disqualification to hold any office of trust or profit under the State. The person accused, whether convicted or acquitted, shall nevertheless be liable to indictment, trial, judgment and punishment according to law.

§ 197. All officers not liable to impeachment shall be subject to removal for misconduct, malfeasance, crime or misdemeanor in office, or for habitual drunkenness or gross incompetency in such manner as may be provided by law.

§ 198. No officer shall exercise the duties of his office after he shall have been impeached and before his acquittal.

§ 199. On trial of impeachment against the Governor, the Lieutenant Governor shall not act as a member of the Court.

§ 200. No person shall be tried on impeachment before he shall have been served with a copy thereof, at least twenty days previous to the day set for trial.

§ 201. No person shall be liable to impeachment twice for the same offense.

ARTICLE XV.

FUTURE AMENDMENTS.

§ 202. Any amendment or amendments to this Constitution may be proposed in either house of the Legislative Assembly; and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment shall be entered on the journal of the house with the yeas and nays taken thereon, and referred to the Legislative Assembly to be chosen at the next general election, and shall be published, as provided by law, for three months previous to the time of making such choice, and if in the Legislative Assembly so next chosen as aforesaid such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each house, then it shall be

the duty of the Legislative Assembly to submit such proposed amendment or amendments to the people in such manner and at such time as the Legislative Assembly shall provide; and if the people shall approve and ratify such amendment or amendments by a majority of the electors qualified to vote for members of the Legislative Assembly voting thereon, such amendment or amendments shall become a part of the Constitution of this State. If two or more amendments shall be submitted at the same time they shall be submitted in such manner that the electors shall vote for or against each of such amendments separately.

ARTICLE XVI.

COMPACT WITH THE UNITED STATES.

The following article shall be irrevocable without the consent of the United States and the people of this State.

§ 203. First. Perfect toleration of religious sentiment shall be secured, and no inhabitant of this State shall ever be molested in person or property on account of his or her mode of religious worship.

Second. The people inhabiting this State do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within the boundaries thereof, and to all lands lying within said limits owned or held by any Indian or Indian tribes, and that until the title thereto shall have been extinguished by the United States, the same shall be and remain subject to the disposition of the United States, and that said Indian lands shall remain under the absolute jurisdiction and control of the Congress of the United States; that the lands belonging to the citizens of the United States residing without this State shall never be taxed at a higher rate than the lands belonging to residents of this State; that no taxes shall be imposed by this State on lands or property therein, belonging to, or which may hereafter be purchased by the United States, or reserved for its use. But nothing in this article shall preclude this State from taxing as other lands are taxed, any lands owned or held by any Indian who has severed his tribal relations, and has obtained from the United States or from any person, a title thereto, by patent or other grant, save and except such lands as have been or may be granted to any Indian or Indians under any acts of Congress containing a provision exempting the lands thus granted from taxation which last mentioned lands shall be exempt from taxation so long, and to such an extent, as is, or may be provided in the act of Congress granting the same.

Third. In order that payment of the debts and liabilities contracted or incurred by and in behalf of the Territory of Dakota may be justly and equitably provided for and made, and in pursuance of the requirements of an act of Congress approved February 22, 1889, entitled "An act to provide for the division of Da-

kota into two states and to enable, the people of North Dakota, South Dakota, Montana and Washington to form Constitutions and State Governments and to be admitted into the Union on an equal footing with the original states, and to make donations of public lands to such states," the States of North Dakota and South Dakota, by proceedings of a Joint Commission, duly appointed under said act, the sessions whereof were held at Bismarck in said State of North Dakota, from July 16, 1889, to July 31, 1889, inclusive, have agreed to the following adjustment of the amounts of the debts and liabilities of the Territory of Dakota which shall be assumed and paid by each of the States of North Dakota and South Dakota, respectively, to-wit:

This agreement shall take effect and be in force from and after the admission into the Union, as one of the United States of America, of either the State of North Dakota or the State of South Dakota.

The words "State of North Dakota," wherever used in this agreement, shall be taken to mean the Territory of North Dakota in case the State of South Dakota shall be admitted into the Union prior to the admission into the Union of the State of North Dakota; and the words "State of South Dakota," wherever used in this agreement, shall be taken to mean the Territory of South Dakota in case the State of North Dakota shall be admitted into the Union prior to the admission into the Union of the State of South Dakota.

The State of North Dakota shall assume and pay all bonds issued by the Territory of Dakota to provide funds for the purchase, construction, repairs or maintenance of such public institutions, grounds or buildings as are located within the boundaries of North Dakota, and shall pay all warrants issued under and by virtue of that certain act of the Legislative Assembly of the Territory of Dakota, approved March 8, 1889, entitled "An act to provide for the refunding of outstanding warrants drawn on the Capitol Building Fund."

The State of South Dakota shall assume and pay all bonds issued by the Territory of Dakota to provide funds for the purchase, construction, repairs or maintenance of such public institutions, grounds or buildings as are located within the boundaries of South Dakota.

That is to say: The State of North Dakota shall assume and pay the following bonds and indebtedness, to-wit:

Bonds issued on account of the Hospital for Insane at Jamestown, North Dakota, the face aggregate of which is \$266,000; also, bonds issued on account of the North Dakota University at Grand Forks, North Dakota, the face aggregate of which is \$96,700; also, bonds issued on account of the Penitentiary at Bismarck, North Dakota, the face aggregate of which is \$93,600; also, refunding Capitol Building warrants dated April 1, 1889, \$83,507.46.

And the State of South Dakota shall assume and pay the following bonds and indebtedness, to-wit:

Bonds issued on account of the Hospital for the Insane at Yankton, South Dakota, the face aggregate of which is \$210,000; also, bonds issued on account of the School for Deaf Mutes, at Sioux Falls, South Dakota, the face aggregate of which is \$51,000; also, bonds issued on account of the University at Vermillion, South Dakota, the face aggregate of which is \$75,000; also, bonds issued on account of the Penitentiary at Sioux Falls, South Dakota, the face aggregate of which is \$94,300; also, bonds issued on account of the Agricultural College at Brookings, South Dakota, the face aggregate of which is \$97,500; also, bonds issued on account of the Normal School at Madison, South Dakota, the face aggregate of which is \$49,400; also, bonds issued on account of the School of Mines at Rapid City, South Dakota, the face aggregate of which is \$33,000; also, bonds issued on account of the Reform School at Plankinton, South Dakota, the face aggregate of which is \$30,000; also, bonds issued on account of the Normal School at Spearfish, South Dakota, the face aggregate of which is \$25,000; also, bonds issued on account of the Soldiers' Home at Hot Springs, South Dakota, the face aggregate of which is \$45,000.

The States of North Dakota and South Dakota shall pay one-half each of all liabilities now existing or hereafter and prior to the taking effect of this agreement incurred, except those heretofore or hereafter incurred, on account of public institutions, grounds or buildings, except as otherwise herein specifically provided.

The State of South Dakota shall pay to the State of North Dakota \$46,500, on account of the excess of territorial appropriations for the permanent improvement of territorial institutions which under this agreement will go to South Dakota, and in full of the undivided one-half interest of North Dakota in the Territorial Library, and in full settlement of unbalanced accounts, and of all claims against the Territory, of whatever nature, legal or equitable, arising out of the alleged erroneous or unlawful taxation of Northern Pacific Railroad lands, and the payment of said amount shall discharge and exempt the State of South Dakota from all liability for or on account of the several matters hereinbefore referred to; nor shall either State be called upon to pay or answer to any portion of liability hereafter arising or accruing on account of transactions heretofore had, which liability would be a liability of the Territory of Dakota had such territory remained in existence, and which liability shall grow out of matters connected with any public institutions, grounds or buildings of the Territory situated or located within the boundaries of the other State.

A final adjustment of accounts shall be made upon the following basis: North Dakota shall be charged with all sums paid on account of the public institutions, grounds or buildings located

within its boundaries on account of the current appropriations since March 9, 1889; and South Dakota shall be charged with all sums paid on account of public institutions, grounds or buildings located within its boundaries on the same account and during the same time. Each State shall be charged with one-half of all other expenses of the territorial government during the same time. All moneys paid into the treasury during the period from March 8, 1889, to the time of taking effect of this agreement by any county, municipality or person within the limits of the supposed State of North Dakota, shall be credited to the State of North Dakota; and all sums paid into said treasury within the same time by any county, municipality or person within the limits of the proposed State of South Dakota shall be credited to the State of South Dakota; except that any and all taxes on gross earnings paid into said treasury by railroad corporations, since the 8th day of March, 1889, based upon earnings of years prior to 1888, under and by virtue of the act of the Legislative Assembly of the Territory of Dakota, approved March 7, 1889, and entitled "An act providing for the levy and collection of taxes upon property of railroad companies in this Territory," being Chapter 107 of the Session Laws of 1889, (that is, the part of such sums going to the Territory) shall be equally divided between the States of North Dakota and South Dakota, and all taxes heretofore or hereafter paid into said treasury under and by virtue of the act last mentioned, based on the gross earnings of the year 1888, shall be distributed as already provided by law, except that so much thereof as goes to the territorial treasury shall be divided as follows: North Dakota shall have so much thereof as shall be or has been paid by railroads within the limits of the proposed State of North Dakota, and South Dakota so much thereof as shall be or has been paid by railroads within the limits of the proposed State of South Dakota; each State shall be credited also with all balances of appropriations made by the Seventeenth Legislative Assembly of the Territory of Dakota for the account of the public institutions, grounds or buildings situated within its limits, remaining unexpended on March 8, 1889. If there shall be any indebtedness except the indebtedness represented by the bonds and refunding warrants hereinbefore mentioned, each State shall at the time of such final adjustment of accounts, assume its share of said indebtedness as determined by the amount paid on account of the public institutions, grounds or buildings of such State in excess of the receipts from counties, municipalities, railroad corporations or persons within the limits of said State, as provided in this article; and if there should be a surplus at the time of such final adjustment, each State shall be entitled to the amounts received from counties, municipalities, railroad corporations or persons within its limits over and above the amount charged it. And the State of North Dakota hereby obligates itself to pay such part of the debts and liabilities of the Territory of Dakota as is declared by the forego-

ing agreement to be its proportion thereof, the same as if such proportion had been originally created by said State of North Dakota as its own debt or liability.

§ 204. Jurisdiction is ceded to the United States over the military reservations of Fort Abraham Lincoln, Fort Buford, Fort Pembina and Fort Totten, heretofore declared by the President of the United States; provided legal process, civil and criminal, of this State, shall extend over such reservations in all cases in which exclusive jurisdiction is not vested in the United States, or of crimes not committed within the limits of such reservations.

§ 205. The State of North Dakota hereby accepts the several grants of lands granted by the United States to the State of North Dakota by an act of Congress, entitled "An act to provide for the division of Dakota into two States, and to enable the people of North Dakota, South Dakota, Montana and Washington to form Constitutions and State Governments, and to be admitted into the Union on equal footing with the original states, and to make donations of public lands to such States," under the conditions and limitations therein mentioned; reserving the right, however, to apply to Congress for modification of said conditions and limitations in case of necessity.

ARTICLE XVII.

MISCELLANEOUS.

§ 206. The name of this State shall be "North Dakota." The State of North Dakota shall consist of all the territory included within the following boundary, to-wit: Commencing at a point in the main channel of the Red River of the North, where the forty-ninth degree of north latitude crosses the same; thence south up the main channel of the same and along the boundary line of the State of Minnesota to a point where the seventh standard parallel intersects the same; thence west along said seventh standard parallel produced due west to a point where it intersects the twenty-seventh meridian of longitude west from Washington; thence north on said meridian to a point where it intersects the forty-ninth degree of north latitude; thence east along said line to place of beginning.

§ 207. The following described seal is hereby declared to be and hereby constituted the Great Seal of the State of North Dakota, to-wit: A tree in the open field, the trunk of which is surrounded by three bundles of wheat; on the right a plow, anvil and sledge; on the left a bow crossed with three arrows, and an Indian on horseback pursuing a buffalo toward the setting sun; the foliage of the tree arched by a half circle of forty-two stars, surrounded by the motto "Liberty and Union now and forever, one and inseparable;" the words "Great Seal" at the top, the words "State of North Dakota" at the bottom; "October 1st" on the left

and "1889" on the right. The seal to be two and one-half inches in diameter.

§ 208. The right of the debtor to enjoy the comforts and necessities of life shall be recognized by wholesome laws, exempting from forced sale to all heads of families a homestead, the value of which shall be limited and defined by law, and a reasonable amount of personal property; the kind and value shall be fixed by law. This section shall not be construed to prevent liens against the homestead for labor done and materials furnished in the improvement thereof, in such manner as may be prescribed by law.

§ 209. The labor of children under twelve years of age shall be prohibited in mines, factories and workshops in this State.

§ 210. All flowing streams and natural water courses shall forever remain the property of the State for mining, irrigating and manufacturing purposes.

§ 211. Members of the Legislative Assembly and Judicial Department, except such inferior officers as may be by law exempted shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm, as the case may be) that I will support the Constitution of the United States and the Constitution of the State of North Dakota; and that I will faithfully discharge the duties of the office of according to the best of my ability, so help me God" (if an oath), (under pains and penalties of perjury), if an affirmation, and no other oath, declaration, or test shall be required as a qualification for any office or public trust.

§ 212. The exchange of "black lists" between corporations shall be prohibited.

§ 213. The real and personal property of any woman in this State, acquired before marriage, and all property to which she may after marriage become in any manner rightfully entitled, shall be her separate property and shall not be liable for the debts of her husband.

ARTICLE XVIII.

CONGRESSIONAL AND LEGISLATIVE APPORTIONMENT.

§ 214. Until otherwise provided by law, the member of the House of Representatives of the United States apportioned to this State, shall be elected at large.

Until otherwise provided by law, the Senatorial and Representative districts shall be formed, and the senators and the representatives shall be apportioned as follows:

The First District shall consist of the townships of Walhalla, St. Joseph, Neche, Pembina, Bathgate, Carlisle, Joliet, Midland, Lincoln and Drayton, in the county of Pembina, and be entitled to one senator and two representatives.

The Second District shall consist of the townships of St. Thomas, Hamilton, Cavalier, Akra, Beauleau, Thingvalla, Gardar,

Park, Crystal, Elora and Lodema, in the county of Pembina, and be entitled to one senator and two representatives.

The Third District shall consist of the townships of Perth, Latonia, Adams, Silvesta, Cleveland, Morton, Vesta, Tiber, Medford, Vernon, Golden, Lampton, Eden, Rushford, Kensington, Dundee, Ops, Prairie Centre, Fertile, Park River and Glenwood, in the county of Walsh, and be entitled to one senator and two representatives.

The Fourth District shall consist of the townships of Forest River, Walsh Center, Grafton, Farmington, Ardock, village of Ardock, Harrison, city of Grafton, Oakwood, Martin, Walshville, Pulaski, Ackton, Minto and St. Andrews, in the county of Walsh, and be entitled to one senator and three representatives.

The Fifth District shall consist of the townships of Gilby, Johnstown, Straban, Wheatfield, Hegton, Arvilla, Avon, Northwood, Lind, Grace, Larimore, and the city of Larimore, Elm Grove, Agnes, Inkster, Elkmount, Oakwood, Niagara, Moraine, Logan and Loretta, in the county of Grand Forks, and be entitled to one senator and two representatives.

The Sixth District shall consist of the Third, Fourth, Fifth and Sixth wards of the city of Grand Forks, as now constituted, and the townships of Falconer, Harvey, Turtle River, Ferry, Rye, Blooming, Meckinock, Lakeville and Lavant, in the county of Grand Forks, and be entitled to one senator and two representatives.

The Seventh District shall consist of the First and Second wards of the city of Grand Forks, as now constituted, and the townships of Grand Forks, Brenna, Oakville, Chester, Pleasant View, Fairfield, Allendale, Walle, Bentru, Americus, Michigan, Union and Washington, in the county of Grand Forks, and be entitled to one senator and two representatives.

The Eighth District shall consist of the county of Traill and be entitled to one senator and four representatives.

The Ninth District shall consist of the township of Fargo and the city of Fargo in the county of Cass and the fractional township number 139 in range 48, and be entitled to one senator and two representatives.

The Tenth District shall consist of the townships of Noble, Wisner, Harwood, Reed, Barnes, Stanley, Pleasant, Kenyon, Gardner, Berlin, Raymond, Mapleton, Warren, Norman, Elm River, Harmony, Durbin, Addison, Davenport, Casselton and the city of Casselton, in the county of Cass, and be entitled to one senator and three representatives.

The Eleventh District shall consist of the townships of Webster, Rush River, Hunter, Arthur, Amenia, Everest, Maple River, Leonard, Dows, Erie, Empire, Wheatland, Gill, Walburg, Watson, Page, Rich, Ayr, Buffalo, Howes, Eldrid, Highland, Rochester, Lake, Cornell, Tower, Hill, Clifton and Pontiac, in the county of Cass, and be entitled to one senator and three representatives.

The Twelfth District shall consist of the county of Richland and be entitled to one senator and three representatives.

The Thirteenth District shall consist of the county of Sargent and be entitled to one senator and two representatives.

The Fourteenth District shall consist of the county of Ransom and be entitled to one senator and two representatives.

The Fifteenth District shall consist of the county of Barnes and be entitled to one senator and two representatives.

The Sixteenth District shall consist of the counties of Steele and Griggs and be entitled to one senator and two representatives.

The Seventeenth District shall consist of the county of Nelson, and be entitled to one senator and one representative.

The Eighteenth District shall consist of the county of Cavalier, and be entitled to one senator and two representatives.

The Nineteenth District shall consist of the counties of Towner and Rolette, and be entitled to one senator and one representative.

The Twentieth District shall consist of the counties of Benson and Pierce, and be entitled to one senator and two representatives.

The Twenty-first District shall consist of the county of Ramsey, and be entitled to one senator and two representatives.

The Twenty-second District shall consist of the counties of Eddy, Foster and Wells and be entitled to one senator and two representatives.

The Twenty-third District shall consist of the county of Stutsman, and be entitled to one senator and two representatives.

The Twenty-fourth District shall consist of the county of LaMoure, and be entitled to one senator and one representative.

The Twenty-fifth District shall consist of the county of Dickey, and be entitled to one senator and two representatives.

The Twenty-sixth District shall consist of the counties of Emmons, McIntosh, Logan and Kidder, and be entitled to one senator and two representatives.

The Twenty-seventh District shall consist of the county of Burleigh, and be entitled to one senator and two representatives.

The Twenty-eighth District shall consist of the counties of Bottineau and McHenry and be entitled to one senator and one representative.

The Twenty-ninth District shall consist of the counties of Ward, McLean, and all the unorganized counties lying north of the Missouri river, and be entitled to one senator and one representative.

The Thirtieth District shall consist of the counties of Morton and Oliver, and be entitled to one senator and two representatives.

The Thirty-first District shall consist of the counties of Mercer, Stark and Billings and all the unorganized counties lying south

of the Missouri river, and be entitled to one senator and one representative.

ARTICLE XIX.

PUBLIC INSTITUTIONS.

§ 215. The following public institutions of the State are permanently located at the places hereinafter named, each to have the lands specifically granted to it by the United States, in the act of Congress, approved February 22, 1889, to be disposed of and used in such manner as the Legislative Assembly may prescribe, subject to the limitations provided in the article on school and public lands contained in this Constitution:

First. The seat of government at the city of Bismarck in the county of Burleigh.

Second. The State University and the School of Mines at the city of Grand Forks, in the county of Grand Forks.

Third. The Agricultural College at the city of Fargo in the county of Cass.

Fourth. A State Normal School at the city of Valley City, in the county of Barnes; and the Legislative Assembly in apportioning the grant of eighty thousand acres of land for normal schools made in the act of Congress referred to shall grant to the said Normal School at Valley City as aforementioned, fifty thousand (50,000) acres, and said lands are hereby appropriated to said institution for that purpose.

Fifth. The Deaf and Dumb Asylum at the city of Devils Lake, in the county of Ramsey.

Sixth. A State Reform School at the city of Mandan, in the county of Morton.

Seventh. A State Normal School at the city of Mayville, in the county of Traill. And the Legislative Assembly in apportioning the grant of lands made by Congress, in the act aforesaid for State Normal Schools, shall assign thirty thousand (30,000) acres to the institution hereby located at Mayville, and said lands are hereby appropriated for said purpose.

Eighth. A State Hospital for the Insane and an Institution for the Feeble Minded in connection therewith, at the city of Jamestown, in the county of Stutsman. And the Legislative Assembly shall appropriate twenty thousand acres of the grant of lands made by the act of Congress aforesaid for "Other Educational and Charitable Institutions" to the benefit and for the endowment of said institution.

§ 216. The following named public institutions are hereby permanently located as hereinafter provided, each to have so much of the remaining grant of one hundred and seventy thousand acres of land made by the United States for "Other Educational and Charitable Institutions," as is allotted below, viz.:

First. A Soldiers' Home, when located, or such other charitable institution as the Legislative Assembly may determine, at Lis-

bon, in the county of Ransom, with a grant of forty thousand acres of land.

Second. A blind Asylum, or such other institution as the Legislative Assembly may determine, at such place in the county of Pembina as the qualified electors of said county may determine at an election to be held as prescribed by the Legislative Assembly, with a grant of thirty thousand acres.

Third. An Industrial School and School for Manual Training, or such other educational or charitable institution as the Legislative Assembly may provide, at the town of Ellendale in the county of Dickey, with a grant of forty thousand acres.

Fourth. A School of Forestry or such other institution as the Legislative Assembly may determine, at such place in one of the counties of McHenry, Ward, Bottineau, or Rolette, as the electors of said counties may determine by an election for that purpose, to be held as provided by the Legislative Assembly.

Fifth. A Scientific School, or such other educational or charitable institution as the Legislative Assembly may prescribe, at the city of Wahpeton, county of Richland, with a grant of forty thousand acres; *Provided*, That no other institution of a character similar to any one of those located by this article shall be established or maintained without a revision of this Constitution.

ARTICLE XX.

PROHIBITION.

To be submitted to a separate vote of the people as provided by the Schedule and Ordinance.

§ 217. No person, association or corporation shall within this State, manufacture for sale or gift, any intoxicating liquors and no person, association or corporation shall import any of the same for sale or gift, or keep or sell or offer the same for sale, or gift, barter or trade as a beverage. The Legislative Assembly shall by law prescribe regulations for the enforcement of the provisions of this article and shall thereby provide suitable penalties for the violation thereof.

SCHEDULE.

§ 1. That no inconvenience may arise from a change of Territorial Government to State Government, it is declared that all writs, actions, prosecutions, claims and rights of individuals and bodies corporate shall continue as if no change of government had taken place, and all processes which may, before the organization of the judicial department under this Constitution, be issued under the authority of the Territory of Dakota shall be as valid as if issued in the name of the State.

§ 2. All laws now in force in the Territory of Dakota, which are not repugnant to this Constitution, shall remain in force until they expire by their own limitations or be altered or repealed.

§ 3. All fines, penalties, forfeitures and escheats accruing to the Territory of Dakota shall accrue to the use of the States of North Dakota and South Dakota, and may be sued for and recovered by either of said states as necessity may require.

§ 4. All recognizances, bonds, obligations or other undertakings heretofore taken, or which may be taken before the organization of the judicial department under this Constitution, shall remain valid, and shall pass over to, and may be prosecuted in the name of the State; all bonds, obligations or other undertakings executed to this Territory, or to any officer in his official capacity, shall pass over to the proper State authority, and to their successors in office, for the uses therein respectively expressed, and may be sued for and recovered accordingly; all criminal prosecutions and penal actions which have arisen, or may arise before the organization of the judicial department, under this Constitution, or which shall then be pending, may be prosecuted to judgment and execution in the name of the State.

§ 5. All property, real and personal, and credits, claims and choses in action belonging to the Territory of Dakota at the time of the adoption of this Constitution, shall be vested in and become the property of the States of North Dakota and South Dakota.

§ 6. Whenever any two of the judges of the Supreme Court of the State, elected under the provisions of this Constitution shall have qualified in their offices, the causes then pending in the Supreme Court of the Territory on appeal or writ of error from the district courts of any county or subdivision within the limits of this State, and the papers, records and proceedings of said court shall pass into the jurisdiction and possession of the Supreme Court of the State, except as otherwise provided in the Enabling Act of Congress, and until so superseded the Supreme Court of the Territory and the judges thereof shall continue, with like powers and jurisdiction as if this Constitution had not been adopted. Whenever the judge of the district court of any district elected under the provisions of this Constitution shall have qualified in his office, the several causes then pending in the district court of the Territory within any county in such district, and the records, papers and proceedings of said district court, and the seal and other property pertaining thereto, shall pass into the jurisdiction and possession of the district court of the State for such county, except as provided in the Enabling Act of Congress, and until the district courts of this Territory shall be superseded in the manner aforesaid, the said district courts and the judges thereof shall continue with the same jurisdiction and power to be exercised in the same judicial districts respectively as heretofore constituted under the laws of the Territory.

§ 7. Until otherwise provided by law, the seals now in use in the Supreme and district courts of this Territory are hereby declared to be the seals of the Supreme and district courts respectively of the State.

§ 8. Whenever this Constitution shall go into effect, the books, records and papers, and proceedings of the probate court in each county, and all causes and matters of administration and other matters pending therein, shall pass into the jurisdiction and possession of the county court of the same county, and the said county court shall proceed to final decree or judgment, order or other determination in the said several matters and causes as the said probate court might have done if this Constitution had not been adopted. And until the election and qualification of the judges of the county courts provided for in this Constitution, the probate judges shall act as the judges of the county courts within their respective counties, and the seal of the probate court in each county shall be the seal of the county court therein, until the said court shall have procured a proper seal.

§ 9. The terms "probate court" or "probate judge," whenever occurring in the statutes of the Territory, shall, after this Constitution goes into effect, be held to apply to the county court or county judge.

§ 10. All territorial, county and precinct officers, who may be in office at the time this Constitution takes effect, whether holding their offices under the authority of the United States or of the Territory, shall hold and exercise their respective offices, and perform the duties thereof as prescribed in this Constitution, until their successors shall be elected and qualified in accordance with the provisions of this Constitution, and official bonds of all such officers shall continue in full force and effect as though this Constitution had not been adopted; and such officers for their term of service, under this Constitution, shall receive the same salaries and compensation as is by this Constitution, or by the laws of the Territory, provided for like officers; *Provided*, That the county and precinct officers shall hold their offices for the term for which they were elected. There shall be elected in each organized county in this State, at the election to be held for the ratification of this Constitution, a clerk of the district court, who shall hold his office under said election until his successor is duly elected and qualified. The judges of the district court shall have power to appoint states attorneys in any organized counties where no such attorneys have been elected, which appointment shall continue until the general election to be held in 1890, and until his successor is elected and qualified.

§ 11. This Constitution shall take effect and be in full force immediately upon the admission of the Territory as a State.

§ 12. Immediately upon the adjournment of this Convention the Governor of the Territory, or in case of his absence or failure to act, the Secretary of the Territory, or in case of his absence or failure to act, the President of the Constitutional Convention shall issue a proclamation, which shall be published and a copy thereof mailed to the chairman of the board of county commissioners of each county, calling an election by the people on the first Tuesday

in October, 1889, of all the State and district officers created and made elective by this Constitution. This Constitution shall be submitted for adoption or rejection at said election to a vote of the electors qualified by the laws of this Territory to vote at all elections. At the election provided for herein the qualified voters shall vote directly for or against this Constitution and for or against the article separately submitted.

§ 13. The board of commissioners of the several counties shall thereupon order such election for said day, and shall cause notice thereof to be given for the period of twenty days in the manner provided by law. Every qualified elector of the Territory, at the date of said election, shall be entitled to vote thereat. Said election shall be conducted in all respects in the same manner as provided by the laws of the Territory for general elections, and the returns for all State and district officers, and members of the Legislative Assembly, shall be made to the canvassing board hereinafter provided for.

§ 14. The Governor, Secretary and Chief Justice, or a majority of them, shall constitute a board of canvassers to canvass the vote of such election for all State and district officers and members of the Legislative Assembly. The said board shall assemble at the seat of government of the Territory on the fifteenth day after the day of such election (or on the following day if such day falls on Sunday), and proceed to canvass the votes on the adoption of this Constitution and for all State and district officers and members of the Legislative Assembly in the manner provided by the laws of the Territory for canvassing the vote for Delegate to Congress, and they shall issue certificates of election to the persons found to be elected to said offices severally, and shall make and file with the Secretary of the Territory an abstract certified by them, of the number of votes cast for or against the adoption of the Constitution, and for each person for each of said offices, and of the total number of votes cast in each county.

§ 15. All officers elected at such election shall, within sixty days after the date of the executive proclamation admitting the State of North Dakota into the Union, take the oath required by this Constitution, and give the same bond required by the law of the Territory to be given in case of like officers of the Territory and districts, and shall thereupon enter upon the duties of their respective offices; but the Legislative Assembly may require by law all such officers to give other or further bonds as a condition of their continuance in office.

§ 16. The judges of the district court who shall be elected at the election herein provided for shall hold their offices until the first Monday in January, 1893, and until their successors are elected and qualified. All other state officers, except judges of the Supreme Court, who shall be elected at the election herein provided for, shall hold their offices until the first Monday in January, 1891, and until their successors are elected and qualified.

Until otherwise provided by law the judges of the Supreme Court shall receive for their services the salary of four thousand dollars (\$4,000) per annum, payable quarterly; and the district judges shall receive for their services the salary of three thousand dollars (\$3,000,) per annum, payable quarterly.

§ 17. The Governor-elect of the State immediately upon his qualifying and entering upon the duties of his office shall issue his proclamation convening the Legislative Assembly of the State at the seat of government on a day to be named in said proclamation, and which shall not be less than fifteen nor more than forty days after the date of such proclamation. And said Legislative Assembly after organizing shall proceed to elect two senators of the United States for the State of North Dakota; and at said election the two persons who shall receive a majority of all the votes cast by the said senators and representatives shall be elected such United States Senators. And the presiding officers of the Senate and House of Representatives shall each certify the election to the Governor and Secretary of the State of North Dakota; and the Governor and Secretary of State shall certify the elections of such Senators as provided by law.

§ 18. At the election herein provided for there shall be elected a Representative to the Fifty-first Congress of the United States, by the electors of the State at large.

§ 19. It is hereby made the duty of the Legislative Assembly at its first session to provide for the payment of all debts and indebtedness authorized to be incurred by the Constitutional Convention of North Dakota, which shall remain unpaid after the appropriation made by Congress for the same shall have been exhausted.

§ 20. There shall be submitted at the same election at which this Constitution is submitted for rejection or adoption, Article XX, entitled "Prohibition," and persons who desire to vote for said article shall have written or printed on their ballots "For Prohibition," and all persons desiring to vote against said article shall have written or printed on their ballots "Against Prohibition." If it shall appear according to the returns herein provided for that a majority of all the votes cast at said election for and against prohibition are for prohibition, then said Article XX shall be and form a part of this Constitution and be in full force and effect as such from the date of the admission of this State into the Union. But if a majority of said votes shall appear according to said returns to be against prohibition, then said Article XX shall be null and void and shall not be a part of this Constitution.

§ 21. The agreement made by the joint commission of the Constitutional Conventions of North Dakota and South Dakota concerning the records, books and archives of the Territory of Dakota, is hereby ratified and confirmed: which agreement is in the words following:—That is to say—

The following books, records and archives of the Terri-

tory of Dakota shall be the property of North Dakota, to-wit: All records, books and archives in the offices of the Governor and Secretary of the Territory (except records of articles of incorporation of domestic corporations, returns of election of delegates to the Constitutional Convention of 1889 for South Dakota, returns of elections held under the so-called local option law, in counties within the limits of South Dakota, bonds of notaries public appointed for counties within the limits of South Dakota, papers relating to the organization of counties situate within the limits of South Dakota, all of which records and archives are a part of the records and archives of said Secretary's office; excepting also, census returns from counties situate within the limits of South Dakota and papers relating to requisitions issued upon the application of officers of counties situate within the limits of South Dakota, all which are a part of the records and archives of said Governor's office.) And the following records, books and archives shall also be the property of the State of North Dakota, to-wit:

Vouchers in the office or custody of the Auditor of this Territory relating to expenditures on account of public institutions, grounds or buildings situate within the limits of North Dakota. One warrant register in the office of the Treasurer of this Territory—being a record of warrants issued under and by virtue of Chapter 24 of the laws enacted by the Eighteenth Legislative Assembly of Dakota Territory. All letters, receipts and vouchers in the same office now filed by counties and pertaining to counties within the limits of North Dakota. Paid and cancelled coupons in the same office representing interest on bonds which said State of North Dakota is to assume and pay. Reports of gross earnings of the year 1888 in the same office, made by corporations operating lines of railroads situated wholly or mainly within the limits of North Dakota. Records and papers of the office of the Public Examiner of the Second District of the Territory. Records and papers of the office of the District Board of Agriculture. Records and papers in the office of the Board of Pharmacy of the district of North Dakota.

All records, books and archives of the Territory of Dakota which it is not herein agreed shall be the property of North Dakota, shall be the property of South Dakota.

The following books shall be copied and the copies shall be the property of North Dakota and the cost of such copies shall be borne equally by said States of North Dakota and South Dakota. That is to say:

Appropriation Ledger for years ending November 1889-90—
one volume.

The Auditor's Current Warrant Register—one volume.

Insurance Record for 1889—one volume.

Treasurer's Cash Book—"D."

Assessment Ledger—"B."

Dakota Territory Bond Register—one volume.

Treasurer's Current Ledger—one volume.

The originals of the foregoing volumes which are to be copied shall at any time after such copying shall have been completed be delivered on demand to the proper authorities of the State of South Dakota.

All other records, books and archives which it is hereby agreed shall be the property of South Dakota, shall remain at the Capitol of North Dakota until demanded by the Legislature of the State of South Dakota, and until the State of North Dakota shall have had a reasonable time after such demand is made to provide copies or abstracts of such portions thereof as the said State of North Dakota may desire to have copies or abstracts of.

The State of South Dakota may also provide copies or abstracts of such records, books and archives, which it is agreed shall be the property of North Dakota, as said State of South Dakota shall desire to have copies or abstracts of.

The expense of all copies or abstracts of records, books and archives which it is herein agreed may be made, shall be borne equally by said two States.

§ 22. Should the counties containing lands which form a part of the grant of lands made by Congress to the Northern Pacific Railroad company be compelled by law to refund moneys paid for such lands or any of them by purchasers thereof at tax sales thereof, based upon taxes illegally levied upon said lands, then and in that case the State of North Dakota shall appropriate the sum of twenty-five thousand dollars (\$25,000) or so much thereof as may be necessary to reimburse said counties for the amount so received from said illegal tax sales and paid by said counties into the treasury of Dakota Territory.

§ 23. This Constitution shall after its enrollment be signed by the President of this Convention and the Chief Clerk thereof and such delegates as desire to sign the same, whereupon it shall be deposited in the office of the Secretary of the Territory, where it may be signed at any time by any delegate who shall be prevented from signing the same for any reason at the time of the adjournment of this Convention.

§ 24. In case the Territorial officers of the Territory of Dakota, or any of them who are now required by law to report to the Governor of the Territory, annually or biennially, shall prepare and publish such reports covering the transactions of their offices up to the time of the admission of the State of North Dakota into the Union, the Legislative Assembly shall make sufficient appropriations to pay one-half of the cost of such publication.

§ 25. The Governor and Secretary of the Territory are hereby authorized to make arrangements for the meeting of the first Legislative Assembly, and the inauguration of the State Government.

§ 26. The Legislative Assembly shall provide for the editing,

and for the publication, in an independent volume, of this Constitution, as soon as it shall take effect, and whenever it shall be altered or amended, and shall cause to be published in the same volume the Declaration of Independence, the Constitution of the United States and the Enabling Act.

Done at Bismarck, Dakota, in open convention, this 17th day of August, A. D. 1889.

INDEX TO CONSTITUTION.

	Section.	Page.
Adjournment—Consent of both houses required	51	20
Adjustment of accounts—basis of	203	45-49
<i>Amendments to Constitution</i>	202	44
Annual reports of railroad corporations	140	32
Appeals from county courts and justices of the peace	114	33
Appeals to the supreme court	109	29
Appointments to fill vacancies	78	24
<i>Apportionment, Congressional and Legislative</i>	214	50
Appropriation of money—bills for	60	21
Appropriation bills	62	21
Arrest—freedom from	42	20
Assessment—how laid	179	41
Assessment of cultivated land same as uncultivated	177	41
Attorney general	82	26
Auditor	82	26
Banking laws—what to provide	145	34
Bills—where may originate	57	21
Bills—amendment of	58	21
Bills—to embrace but one subject	61	21
Bills—several readings of	63	21
Bills—not to be revised or altered	64	21
Bills—majority vote of members-elect necessary to pass	65	22
Bills—duties of presiding officers in relation thereto	66	22
Bills—duty of governor in relation thereto	79	25
Board of university and school lands—power of	156	36
Bonds of state or county—when invalid	187	43
Black lists	212	50
Census—when taken	35	18
Charters and special privileges—when invalid	132	33
Charters subject to provisions of constitution	133	33
Child labor prohibited	209	50
Citizenship	121	31
Clerk of supreme court	93	27
Clerk of district court—election of	10	16
Clerk of district court	108	29
Coal lands—not to be sold	155	36
Commissioner of agriculture and labor	82	26
Commissioner of insurance	82	26
Compensation of supreme court judges	99	28
<i>Compact with the United States</i>	203-205	45-49
Condemnation of private property	14	16
“Corporation”—how construed	144	34
Corporations—elections	135	33
Corporations—restrictions	136-138	33
<i>Corporations Other Than Municipal</i>	131-146	32-35
Corporations controlled by general laws	131	32
Constitution to be printed, etc	26	17

	Section.	Page.
Constitution—mandatory and prohibitory	21	17
Constitution—how signed	23	17
Constitution—when to take effect	11	16
Constitution—submitted to vote of people	12	16
Contempt—punishment for	48	20
Counties—organization of	166	39
Counties reimbursed for certain taxes—when	22	17
<i>County and Township organization</i>	166-173	39-40
County boundaries—how changed	168	39
County commissioners—number of	172	40
County courts	110	29
County courts—jurisdiction	111	29
County court judges—election	111	29
County court—same as territorial judge of probate	8	16
County indebtedness limited	183	42
County officers—territorial continued in office	10	16
County officers—when elected	173	40
County powers—transferred from territory to state	4	15
County seats—how changed	169	39
County superintendent of schools—election and duties	150	35
Debts and liabilities—what South Dakota to assume	203	45-49
Debts and liabilities—what portion North Dakota to assume ..	203	45-49
Debts of constitutional convention—how paid	19	17
<i>Declaration of Rights</i>	1-24	15-17
District courts—jurisdiction	103	28
District courts—terms of	115	31
District judges—restrictions	116	31
District judges—eligibility of	107	29
District judges—terms of office	104	28
Districts—legislative	214	51
Distribution of legislative powers	25	17
Division of territorial records—plan of	21	17
Division of territorial debts and liabilities	203	45
Division agreement—when to take effect	203	45
Dower rights	213	50
Duties of state officers	83	26
<i>Education</i>	147-152	35
Educational institutions under state control	152	35
Electors—residence of	125	32
Electors privileged from arrest—when	123	32
Elections—general—date of	124	32
Election of county officers	173	40
Election of state officers	82	26
Election of supreme court judges	90	27
Electors—qualification of	121	31
<i>Elective Franchise</i>	121-129	31-32
Eligibility of district judges	107	29
Eligibility of supreme court judges	94	27
Eligibility of state officers	82	26
Eligibility of governor and lieutenant governor	73	23
Eligibility of members of legislature	37	19
Employment—free right to obtain	23	17
Enacting clause	59	21
Excessive bail	6	15
<i>Executive Department</i>	71-84	23-26
Exemptions	208	50
<i>Ex post facto</i> laws prohibited	16	17
Felony—trial for	8	16
Flowing streams property of state	210	50
Freedom of speech and publication	9	16
Governor—duty in relation to bills	79	25
Governor may disapprove parts of bills	80	25

	Section.	Page.
Governor—official influence of prohibited.....	81	25
Governor—duties of.....	75	24
Governor and lieutenant governor—eligibility of.....	73	23
Governor and lieutenant governor—how elected.....	74	24
Governor—qualifications and term.....	71	23
Gross earnings system—may be adopted when.....	176	40-41
House of representatives.....	32	18
House—speaker of.....	36	19
<i>Impeachment and Removal from Office</i>	194-201	44
Impeachment—power with the house.....	194	44
Impeachment—senate to try.....	195	44
Impeachment—who liable.....	196	44
Impeachment trial—the court.....	199	44
Imprisonment for debt.....	15	16
Journals of the legislature.....	49	20
Judges—disqualified from holding certain offices.....	119	31
Judges of supreme court—increased when.....	95	27
Judges of probate same as county court.....	8	16
<i>Judicial Department</i>	85-120	26-31
Judicial districts—boundaries of.....	105	29
Judicial districts—may be increased when.....	106	29
Judicial districts—number of.....	104	28
Judicial powers—how distributed.....	85	26
Jurisdiction over military reservations.....	204	49
Jurisdiction of supreme court.....	86	26
Jury trial—right of.....	7	16
Justices of the peace.....	112	30
Land grants to public institutions.....	215-216	53
Land grants—acceptance of.....	205	49
Laws—when to take effect.....	67	22
Laws—uniform operation of.....	11	16
Legislative Assembly—when and where to meet.....	53	21
Legislative Assembly—when first session to meet.....	17	17
Legislative day.....	63	21
<i>Legislative Department</i>	25-70	17-23
Legislative districts.....	214	50
Legislative record.....	49	20
Legislative sessions—when begin.....	41	20
Lieutenant governor—qualifications and duties.....	72	23
Local charters.....	139	33
Members—freedom from arrest.....	42	20
Members of legislature—beginning of term of service.....	41	20
Members of legislature—eligibility of.....	37-38	19
Members of legislature disqualified to hold certain offices.....	39	19
Military subordinate to civil power.....	12	16
<i>Militia</i>	188-193	43
Militia—how armed and disciplined.....	189	43
Militia—how classified.....	190	43
Militia officers appointive.....	191	43
Militia forces—when privileged from arrest.....	193	43
Municipal corporations—under legislative control.....	130	32
Natural rights.....	1, 2, 3	15
North Dakota—boundary of.....	206	49
North Dakota to assume certain debts.....	203	45
Oath of office.....	211	50
Official influence of governor prohibited.....	81	25
Open sessions.....	50	20
Pay of members.....	45	20
Per diem and mileage.....	45	20
Personal interest in measures.....	43	20

	Section.	Page.
Police magistrates—jurisdiction.....	113	28
Police powers	134	33
Poll tax.....	180	41
President of the senate—lieutenant governor.....	77	24
President of the senate.....	31	25
Privileges—special prohibited.....	20	25
Private property—how condemned.....	14	24
Process—style of.....	97	28
<i>Prohibition</i>	217	54
Prohibition—submission of to people.....	20	17
Public credit restricted	185	42
<i>Public debt and public works</i>	182-187	41-43
Public debt limited.....	182	41
<i>Public Institutions</i>	215-216	53
Public institutions permanently located.....	215-216	53
Public institutions—names of.....	215-216	53
Public lands—sale of.....	164	38
Public moneys—how paid out.....	186	42
Public schools—uniform system.....	148-149	35
Public schools.....	147	35
Qualifications of militia	188	43
Qualification of electors	121	31
Qualification of senators.....	23	18
Qualification of representatives	34	18
Qualification of members—each house judge of.....	47	20
Quorum.....	46	20
Railroad commissioners—number of.....	82	26
Railroad corporations—annual reports, etc.....	140	33
Railroads—general rights.....	143	34
Redress of grievances	10	16
Religious liberties	4, 5	15
Removal from office—who liable.....	197	44
Reporter of supreme court.....	93	27
Reprives and fines—power of governor to grant.....	76	24
Representatives—number of	* 32	18
Representatives—term of.....	33	18
Representatives—qualification of.....	34	18
Representative districts.....	35	18
Representative districts—boundaries of	214	50
Representative in Congress—when first elected	18	17
Reports of territorial officers.....	24	17
Repudiation prohibited.....	184	42
<i>Revenue and taxation</i>	174-181	40-41
Right of eminent domain.....	134	33
Rights as to civil matters	22	17
Rules—power to establish.....	48	20
Salaries of state officers	84	26
Salaries of supreme court and district judges.....	16	17
<i>School and Public Lands</i>	153-165	36-38
School funds—penalty for misappropriation	165	38
School funds—perpetual and inviolable	159	37
School funds—how invested.....	162	38
School lands—special privileges prohibited.....	163	38
School fund.....	153	36
School fund—apportionment of.....	154	36
School lands—how sold.....	155	36
School lands—board of appraisal	157	37
School lands—terms of sale	158	37
School lands—manner of appraisement	160	38
School lands—may be leased	161	38

	Section.	Page.
<i>Schedule</i>	1-26	15-17
Seals—territorial continued	7	16
Seal of North Dakota	207	49
Searches and seizures—unreasonable prohibited	18	17
Sectarian control of schools prohibited	147	35
Secret ballot	129	82
Secretary of state—election of	82	26
Senate	26	17
Senate—president of	31	18
Senatorial districts—how changed	35	18
Senatorial districts—boundaries of	214	50
Senatorial districts	29	18
Senatorial districts—how numbered	30	18
Senators—classes	30	18
Senators—number of	26	17
Senators—term of	27	18
Senators—qualification of	28	18
Sessions of legislature—extraordinary	75	24
Sessions—biennial	55	21
Sessions—time limited	56	21
South Dakota to pay North Dakota certain sums	203	45
Speaker of the house	36	19
Special legislation prohibited	69	22
Special privileges	20	17
States attorneys—appointment of	10	16
State officers—when to be chosen	82	26
State officers—terms of office	82	26
State officers—when first officers to qualify	15	16
State officers—terms of first officers	16	17
State officers—duties of	83	26
State officers—salaries	84	26
State debt limited	182	41
State disclaims title to unappropriated public lands	203	45
Stock of railroad corporations—consolidation of prohibited	141	34
Suffrage—may be extended	122	31
Superintendent of public instruction	82	26
Suits against state—how brought	22	17
Supreme court—vacancies how filled	98	28
Supreme court judges—compensation	99	28
Supreme court—restriction of power	96	28
Supreme court reports	93	27
Supreme court judges—eligibility of	94	27
Supreme court judges—terms of office	91	27
Supreme court—clerk of	93	27
Supreme court—reporter of	93	27
Supreme court—quorum	89	27
Supreme court judges—how elected	90	27
Supreme court—powers	87	26
Supreme court—terms	88	27
Supreme court—jurisdiction	86	26
Supreme court—jurisdiction over territorial causes pending	6	15
Supreme court and district judges—salaries of	16	17
Supreme court judges—when disqualified to sit	100	28
Syllabus	101	28
Taxation—power of state irrevocable	178	41
Taxation—restrictions	174-175	40
Taxation—to be uniform	176	40
Terms of court—how fixed	118	31
Terms of supreme court	88	27
Territorial to state government—writs, etc	1	15

	Section.	Page.
Territorial laws—what remain in force	2	15.
Toleration of religious sentiment.....	203	45
Township organization	170	39.
Township government.....	171	40
Transgression of powers.....	24	17
Transportation rates—right of legislature to control	142	34
Treason against the state	18	26.
Treasurer	19	17
Treasurer—eligibility of	82	26.
Trial—speedy guaranteed	13	16.
Trial by jury guaranteed	7	16.
Tribunals of conciliation	120	31
Trusts and combinations unlawful	146	35-
United States senators—when to be elected	17	17
Vacancies in office—how filled.....	78	24
Vacancies—how filled.....	44	20.
Veto power.....	79	25
Votes—how recorded	54	21
Vote or influence—unlawful giving of	40	19
Women may vote—when.....	128	32.
Yeas and nays—when to be taken.....	49	20.

TABLE OF CONTENTS.

ACCOUNTS.

- CHAPTER 1—An act to amend an act, entitled “An act to provide for a system of accounts for the State Auditor and State Treasurer” 81
- CHAPTER 2—An act to authorize the State Treasurer to transfer all moneys now to the credit of the Stock Indemnity Fund and all moneys that may be hereafter paid into said fund, credited to the Stock Indemnity Fund, as provided by Section 17, Chapter 32 of the General Laws of 1887, and also the sum of \$4,543.55, credited to the counties of Buford, Flannery and Mountraille, to the General Fund of the State of North Dakota..... 82
- CHAPTER 3—An act to amend Chapter 175 of the Laws of 1890, being an act to amend Section 1 of Chapter 51 of the Session Laws of 1889, referring to the transfer of certain county funds..... 83

ADOPTION OF CHILDREN.

- CHAPTER 4—An act entitled “An act regulating the adoption of children”..... 83

AGRICULTURAL COLLEGE.

- CHAPTER 5—An act to amend Sections 3 and 5 of Chapter 160, Session Laws 1890, providing for the establishment, erection and operation of the North Dakota Agricultural College and Agricultural Experimental Station at Fargo 85
- CHAPTER 6—An act designating and appropriating section 36, in township 140, of range 49 west, in the county of Cass, for the use of the State Agricultural College, as a site for that institution.. 86
- CHAPTER 7—An act accepting the provisions of an act of Congress, approved August 30, 1890, and entitled “An act to apply a portion of the proceeds of the public lands to the more complete endowment and support of the colleges for the benefit of agriculture and mechanic arts, established under the provisions of an act of Congress, approved July 2, 1862,” and designating the North Dakota Agricultural College as the sole beneficiary under this act for the State of North Dakota, and naming the treasurer of said college as the recipient of all funds payable from the United States Treasury in accordance with said act of Congress..... 87

APPROPRIATIONS.

- CHAPTER 8—An act for the appropriation of moneys, for the payment of mileage and per diem of members and the salaries of employes of the Legislative Assembly of the State of North Dakota, and authorizing the payment thereof 88
- CHAPTER 9—An act providing clerk hire for the various State officers, and making appropriation therefor..... 89

CHAPTER 10—An act making a standing annual appropriation for the payment of the salaries of the various State officers	90
CHAPTER 11—An act appropriating money for the maintenance of the public offices of the State.....	90
CHAPTER 12—An act making an appropriation to pay certain expenses incurred by the Second Legislative Assembly of the State of North Dakota	91
CHAPTER 13—An act providing for an appropriation for the erection of buildings for the State Agricultural College at Fargo, and for the contingent expenses incident to the construction thereof.....	92
CHAPTER 14—An act providing for an appropriation for the maintenance of the Deaf and Dumb School at Devils Lake	92
CHAPTER 15—An act to provide for an appropriation for the current and contingent expenses for the Asylum at Jamestown for the Insane and for making needed permanent improvements.....	93
CHAPTER 16—An act providing for an appropriation of money for the erection of a suitable building for the Deaf and Dumb Asylum at the city of Devils Lake, Ramsey county, North Dakota, and for the contingent expenses incident thereto.....	94
CHAPTER 17—An act appropriating money to improve and perfect the water supply at the Hospital for Insane at Jamestown	94
CHAPTER 18—An act providing for an appropriation for the current and contingent expenses of the Penitentiary at Bismarck, and for making needed permanent improvements.....	95
CHAPTER 19—An act making appropriations for the maintenance of the University of North Dakota	96
CHAPTER 20—An act to provide funds for the construction and maintenance of the State Normal School at Valley City.....	97
CHAPTER 21—An act appropriating money for the erection of a Soldiers' Home at Lisbon, North Dakota, and for the contingent expenses incident thereto	98
CHAPTER 22—An act providing for an appropriation to pay the expenses incurred by the Governor of the State during the recent threatened Indian outbreak.....	98
CHAPTER 23—An act to reimburse Prof. E. J. Babcock for expenses incurred in making investigations regarding the adaptability of the State of North Dakota to the culture of sugar beets, and for investigations regarding the value of North Dakota coals.....	99
CHAPTER 24—An act to appropriate money for the relief of the destitute persons in North Dakota	100
CHAPTER 25—An act providing for an appropriation of \$8,500 for compiling the laws of the State of North Dakota.....	100
CHAPTER 26—An act providing for an appropriation for the maintenance of the State Normal School at Mayville, N. D.....	101
CHAPTER 27—An act providing for an appropriation for manufacture of potato starch in the State of North Dakota.....	101
CHAPTER 28—An act providing for an appropriation to pay John A. McLean for brick furnished the Dakota Penitentiary at Bismarck, North Dakota.....	102
CHAPTER 29—An act to appropriate money to pay the expenses of selecting and acquiring title to the lands donated by Congress to the State of North Dakota for its public institutions, and to carry out the provisions of "An act providing for the organization of the Board of University and School Lands," approved March 20, 1890	102

CHAPTER 30—An act to make an appropriation for the collection, arrangement and display of the products of the State of North Dakota at the World's Columbian Exposition of 1893, and to provide for the expenses of the State Commissioners thereof.....	103
CHAPTER 31—An act making an appropriation to pay James M. Gleason for labor as janitor at the Capitol	104
CHAPTER 32—An act making an appropriation for a library in the office of the State Superintendent of Public Instruction.....	104
ARTESIAN WELLS.	
CHAPTER 33—An act to enable civil townships to issue bonds for the purpose of sinking artesian wells, and to provide for locating the same.....	105
CHAPTER 34—An act to encourage the construction of artesian wells and defining the rights and liabilities of persons, corporations and companies constructing said wells for the purpose of power and for the purpose of irrigating agricultural lands.....	107
ASSIGNMENTS.	
CHAPTER 35—An act to amend Section 2027 of Title III of Part II of the Civil Code.....	110
BLIND ASYLUM.	
CHAPTER 36—An act providing for the location of a Blind Asylum in the county of Pembina, State of North Dakota, at such place in the county of Pembina as the qualified electors of said county may determine at an election to be held as prescribed by the Legislative Assembly of the State of North Dakota, with a grant of land as provided in Section 216, Article 19, of the Constitution of the State of North Dakota.....	111
BONDS.	
CHAPTER 37—An act authorizing and empowering the Governor, State Auditor and State Treasurer to issue bonds to pay the State of North Dakota's share of the indebtedness of the Territory of Dakota, as determined by the Joint Commission of the States of North Dakota and South Dakota, appointed pursuant to law....	113
CHAPTER 38—An act to provide for the registration by the Treasurer of State bonds issued or assumed by the State of North Dakota	115
CHAPTER 39—An act authorizing civil townships to issue bonds to procure seed for needy farmers resident therein.....	116
BRANDS AND EARMARKS.	
CHAPTER 40—An act to regulate the use of marks and brands and trade marks.....	119
CHAPTER 41—An act entitled "An act to prevent the branding of horses, mules, asses and cattle during certain seasons of the year"	122
CHAPTER 42—An act entitled "An act to prevent the illegal branding, killing, stealing, maiming or driving stock, the property of another person, from their accustomed range, in the State of North Dakota"	122
CITIES.	
CHAPTER 43—An act to amend Article 15, of Chapter 73, Laws of 1887, entitled "An act to provide for the incorporation of cities"	123

COAL.	
CHAPTER 44—An act to encourage the development of the coal mines of the State and to determine the kind of coal that shall be used as fuel in the various State Institutions.....	125
CONSTITUTIONAL AMENDMENTS.	
CHAPTER 45—An act to increase the State debt limit; an act proposing an amendment to Section 182, of Article 12, of the Constitution of the State of North Dakota.....	125
CHAPTER 46—An act to provide for the publication of future amendments to the Constitution, and fixing the rate and method of compensation therefor.....	126
CHAPTER 47—Proposed amendment to prohibit lotteries.....	127
CORPORATIONS.	
CHAPTER 48—An act to amend Section 407, Civil Code 1877, and Section 538, Civil Code of 1877.....	127
CHAPTER 49—An act to amend Section 8 of Chapter 72 of the General Laws of 1890, the same being "An act entitled an act to provide for the incorporation of certain classes of benevolent and charitable institutions".....	128
COUNTY BOUNDARIES.	
CHAPTER 50—An act to increase the revenues of the state by changing and increasing the boundaries of the counties of Pierce, McHenry, Bottineau, Ward, McLean, Williams, Billings, Stark, Morton and Mercer, and by repealing the act entitled "An act pertaining to the subdivision of the counties of Walette and Howard, Dakota Territory," approved March 9, 1883.....	129
COUNTY COURTS.	
CHAPTER 51—An act defining the criminal jurisdiction of county courts having civil and criminal jurisdiction, and providing for the practice and procedure therein, and to provide clerk hire therefor.....	133
COUNTY OFFICERS.	
CHAPTER 52—An act fixing the salaries of county auditor and register of deeds, and for the repeal of Sections 1, 2, 3, 4 and 5, Chapter 50, Laws of 1887, and Sections 14 and 15, Chapter 10, Laws of 1889.....	135
CHAPTER 53—An act to regulate the salaries of county treasurers, and to provide for the payment of the same.....	137
COUNTY WARRANTS.	
CHAPTER 54—An act relating to registering of county warrants and duty of the county treasurer relating thereto.....	139
CRUELTY TO ANIMALS.	
CHAPTER 55—An act amending Sections 695 and 697 of the Penal Code, being Sections 6886 and 6888, Compiled Laws, and for the further prevention of cruelty to animals.....	140
EDUCATION.	
CHAPTER 56—An act to amend Sections 3, 4, 7, 8, 22, 24, 32, 37, 40, 55, 66, 67, 68, 74, 75, 79, 81, 83, 86, 87, 101, 110, 121, 122, 135, 136, 137,	

140, 143, 144, 148, 167, 169 and 192, of Chapter 62, Laws of 1890, entitled "an act to provide for a uniform system of free public schools throughout the State and to prescribe penalties for violation of the provisions thereof".....	141
CHAPTER 57—An act to amend Sections 90, 91, 91, 92, 93, 94, 95, 96, 97, 98, 99 and 100 of Chapter 62, Laws of 1890, an act to provide for a uniform system of free public schools throughout the State, and to prescribe penalties for violation of the provisions thereof.	156
CHAPTER 58—An act repealing Section 41 of Chapter 62, Session Laws of 1890, entitled "An act to provide for a uniform system of free public schools throughout the State, and to prescribe penalties for violation of the provisions thereof".....	161
CHAPTER 59—An act authorizing special school districts to refund bonded indebtedness, and to transfer certain funds.....	161
CHAPTER 60—An act requiring the Schandinavian languages to be taught at the State University at Grand Forks.....	162
CHAPTER 61—An act to amend "An act providing for the establishing of independent school districts in cities heretofore organized for school purposes, under special laws, and provided with boards of education".....	163
CHAPTER 62—An act to amend Section 33 of Chapter 62 of an act passed at the First Legislative Assembly of the State of North Dakota, known as the school laws.....	164
CHAPTER 63—An act providing for bringing independent school districts under the provisions of the General School Laws, and for the repeal of certain laws providing for independent districts	165
CHAPTER 64—An act repealing Chapter 13 of the Special Laws of 1883, entitled "An act to locate and establish a Territorial Normal School".....	167
CHAPTER 65—An act to amend Sections, 2, 5, 6 and 11 of Chapter 146 of the General Laws of the year 1890, entitled "An act to provide for the leasing and sale of the common school lands of North Dakota".....	167

ELECTIONS.

CHAPTER 66—An act providing for printing and distributing ballots at public expense, and to regulate voting at all general elections, except municipal, town or school elections.....	171
---	-----

EXEMPTIONS.

CHAPTER 67—An act entitled An act to define and limit the homestead exemption, limiting the value thereof, providing a method of claiming and obtaining the same, regulating the disposition, conveyance and incumbrance thereof, and the disposition, conveyance and re-incumbrance of the same in case of insanity of husband or wife.....	185
--	-----

FEES.

CHAPTER 68—An act entitled, "An act to regulate the fees of clerks of the district courts of the State of North Dakota".....	190
--	-----

GAME.

CHAPTER 69—An act for the protection of game.....	192
CHAPTER 70—An act to amend Sections 1 and 2 of Chapter 63 of the General Laws of 1883.....	193

CHAPTER 71—An act to amend Section 1, of Chapter 157, of the Laws of 1890, entitled "Bounty for Wolf Scalps".....	194
IMMIGRATION.	
CHAPTER 72—An act authorizing counties to raise and expend a fund for the purpose of encouraging immigration.....	195
INSURANCE.	
CHAPTER 73—An act to provide for the incorporation and regulation of life and casualty insurance companies, corporations or societies, other than co-operative or assessment life and casualty association or societies.....	196
CHAPTER 74—An act relating to life, casualty and other insurance on the assessment plan, and the conduct of the business of such insurance.....	204
IRRIGATION.	
CHAPTER 75—An act to promote irrigation.....	213
CHAPTER 76—An act entitled "An act creating the office of State Superintendent of Irrigation and Forestry, and prescribing the duties thereof".....	216
JUDICIAL DISTRICTS.	
CHAPTER 77—An act attaching and annexing the counties of Ren-ville, Montraille, Flannery, Buford, Garfield and Stevens, in the Second judicial district of the State of North Dakota, to the county of Ward, in said Second judicial district and State, for judicial and other purposes.....	219
CHAPTER 78—An act attaching the county of Church, in the Second judicial district of the State of North Dakota, to the county of McHenry, in said judicial district and State, for judicial and other purposes.....	219
CHAPTER 79—An act defining the boundaries of the Fifth judicial district, subdividing the same, and fixing the time for holding the terms of [the] district court therein.....	220
JUSTICE COURTS.	
CHAPTER 80—An act to amend Section 2 of Article 1 of Chapter 1 of the Justice's Code, Revised Codes of 1887, entitled "An act to establish a code of proceedings in courts of justices of the peace and to limit the jurisdiction of the same".....	222
CHAPTER 81—An act to amend Section 1, Chapter 82, of the General Laws of 1887.....	223
LAWS.	
CHAPTER 82—An act entitled, "An act to provide for the compilation, publication, distribution and sale of the Laws of the State of North Dakota.....	224
CHAPTER 83—An act to amend Section 26, Chapter 119, Laws of 1890, entitled "An act in relation to printing and binding for the State, to create a printing commission, providing for the distribution of public documents, reports and session laws, prescribing the duties of State officers in relation thereto and making an appropriation for document fund".....	227
LEGISLATURE.	
CHAPTER 84—An act entitled "An act prescribing the duties of the President <i>pro tempore</i> of the Senate".....	228

MARRIAGEABLE AGE.

- CHAPTER 85—An act to amend Chapter 91 of the Laws of 1890. . . . 228

MILITIA.

- CHAPTER 86—An act to provide a Military Code for the State of North Dakota. . . . 229
- CHAPTER 87—An act to provide for the maintenance of the military department as provided in the Military Code of the State of North Dakota. . . . 244
- CHAPTER 88—An act entitled "An act empowering and authorizing the Governor of the State of North Dakota to furnish arms and equipments to all Grand Army posts in good standing in the State of North Dakota. . . . 245

NORMAL SCHOOLS.

- CHAPTER 89—An act to provide for the erection, operation and management of the Normal Schools of the State; and to repeal Chapters 162 and 163, Laws of 1890, acts entitled respectively: "An act entitled 'An act to provide for the erection and operation of a State Normal School at Mayville, Traill county, North Dakota,' approved February 17, 1890, and "An act to locate and provide for the government of a State Normal School at Valley City, Barnes county, North Dakota," approved March 8, 1890. . . . 246
- CHAPTER 90—An act to reimburse the Milnor Normal School, of the town of Milnor, Sargent county, North Dakota, for expenditures in maintaining said school. . . . 252

NOXIOUS WEEDS.

- CHAPTER 91—An act for the destruction of noxious weeds, providing penalties for the violation of the same, and for the repeal of an act entitled "An act to prevent the spread of noxious weeds in the Territory of Dakota," General Laws of 1885, Supplement, Dakota Territory, and an act entitled "An act to amend Section 1, General Laws 1885, Supplement, relating to noxious weeds, Chapter 102, Session Laws of 1890" 253

PAROLING PRISONERS.

- CHAPTER 92—An act entitled "An act for paroling prisoners" 255

PRAIRIE FIRES.

- CHAPTER 93—An act for the prevention of prairie fires and to provide against damage done by them; also prescribing duties of county commissioners in relation thereto 256

PUBLIC CREDIT.

- CHAPTER 94—An act to amend Chapter 114 of the Session Laws, approved March 18, 1890, entitled an act to amend an act entitled an act to amend Sections 2 and 4 of Chapter 58 of the Session Laws of 1879, entitled an act for the protection of the public credit 258

RAILROADS.

- CHAPTER 95—An act to amend Section 6, of Chapter 122, of the General Laws of 1890, entitled "An act to regulate common carriers and defining common carriers and defining the duties of the Commissioners of Railroads in relation thereto in the State of North Dakota," and to re-enact the same. . . . 259

CHAPTER 96—An act to amend subdivisions "E," "F" and "G," of Section 8, of Chapter 122, of the Laws of 1890, pertaining to the regulation of common carriers.....	260
CHAPTER 97—An act to amend Section 2, Chapter 124, of the General Laws of 1890, entitled "An act relating to the shipment of live stock and grain".....	262

REPORTS.

CHAPTER 98—An act fixing the penalty for willful neglect of certain officers to make reports, and other duties required by law, prescribing certain duties of the board of county commissioners, and states attorney in relation thereto.....	264
CHAPTER 99—An act to amend Section 20, of Chapter 119, of the Laws of 1890.....	265

REVENUE AND TAXATION.

CHAPTER 100—An act to amend Chapter 132 of the Laws of 1890, being an act entitled "An act prescribing the mode of making assessments and the levy and collection of taxes, and [for] other purposes relative thereto.....	266
CHAPTER 101—An act to amend Section 160 of the Civil Code.....	275
CHAPTER 102—An act for the equitable adjustment and settlement of the delinquent taxes due to the State from the several counties.....	275
CHAPTER 103—An act entitled "An act providing for the cancellation of certain illegal taxes on railroad grant lands upon which the United States survey fees had not been paid, and describing the manner in which it shall be done".....	277
CHAPTER 104—An act to legalize and validate the State tax levy for the year 1890, as made by the State Board of Equalization on the 26th day of August, A. D. 1890.....	278
CHAPTER 105—An act to amend Section 1, Chapter 139, General Laws of 1890, entitled "An act requiring the payment of fees into the State Treasury by corporations, upon filing articles of incorporation, or upon increase of capital stock".....	279
CHAPTER 106—An act authorizing the levy of State taxes.....	280
CHAPTER 107—An act providing for extension of the time for the payment of the taxes for the year 1890.....	280
CHAPTER 108—An act giving power to county commissioners to dispose of real estate bid in, in the name of the county at tax sales.....	281
CHAPTER 109—An act to legalize the action of the Governor, Chief Justice and Secretary of State acting as a State Board of Canvassers.....	283

SEED GRAIN.

CHAPTER 110—An act to amend Section 6 of an act entitled "An act authorizing counties to procure seed grain for needy farmers resident therein, Chapter 152 of the Session Laws of North Dakota, 1890, and to re-enact the same as so amended".....	283
CHAPTER 111—An act to amend Sections 1 and 7 of Chapter 150 of the Laws of 1890, being an act entitled "An act to provide for liens upon crops and for the levy of a tax to secure the payment of the purchase price of seed grain".....	285

CHAPTER 112—An act to amend Sections 11 and 13 of Chapter 152 of the Session Laws of 1890, entitled "An act authorizing counties to issue bonds to procure seed grain for needy farmers resident therein and to repeal Section 12 of the same act"..... 286

CHAPTER 113—An act to amend Section 18, of Chapter 152, entitled "An act authorizing counties to issue bonds to procure seed grain for needy farmers resident therein," approved February 14, 1891. 287

STATISTICS.

CHAPTER 114—An act to provide for the collection and compilation of the statistics of the State of North Dakota..... 288

CHAPTER 115—An act to amend Chapter 46 of the Laws of 1890.... 292

STOCK.

CHAPTER 116—An act to provide for the appointment of sheep inspectors and to provide for the supervision of sheep in case of infection 295

CHAPTER 117—An act to protect stock raisers and promote the breeding of improved live stock within the State of North Dakota, and to provide a lien for the services of sires 298

SUPREME COURT.

CHAPTER 118—An act regulating the practice in the Supreme Court and in the district court in certain instances 300

CHAPTER 119—An act regulating the admission of attorneys to practice law in the courts of North Dakota..... 302

CHAPTER 120—An act regulating appeals from the district courts to the Supreme Court and to repeal Chapters 2 and 16 of the Code of Civil Procedure, Dakota Territory, as published in Levissee's Code; and Chapters 20 and 26 of the Session Laws of Dakota Territory of the Year 1887, and also Sections 5,213 to 5,239, both inclusive, of the Compiled Laws of Dakota Territory for the year 1887 304

CHAPTER 121—An act to amend Section 25, of Chapter 120 of the Laws of 1891, entitled "A bill for an act regulating appeals from the district courts to the Supreme Court, and to repeal Chapters 3 and 16 of the Code of Civil Procedure, Dakota Territory, as published in Levissee's Code; and Chapters 20 and 26 of the Session Laws of Dakota Territory of the year 1887; also Sections 5213 to 5239, both inclusive, of the Compiled Laws of Dakota Territory of the year 1887" 311

CHAPTER 122—An act to amend Section 28, of Chapter 120, of the Session Laws of 1891, approved February 11, 1891, entitled "An act regulating appeals in civil actions" 312

CHAPTER 123—An act to provide for the publication of reports of opinions rendered by the Supreme Court of the State of North Dakota, by amending Section 7, of Chapter 171, of the laws passed by the First Legislative Assembly of the State of North Dakota 313

USURY.

CHAPTER 124—An act defining usury, making the taking of usury a misdemeanor, also the assignment or disposition of usurious contracts, and providing a penalty therefor 313

VETERINARY SURGEON.	
CHAPTER 125—An act to prevent the spread of contagious and infectious diseases among domestic animals.....	314
WAREHOUSES.	
CHAPTER 126—An act to regulate grain warehouses and the weighing and handling of grain, and defining the duties of the Railroad Commissioners in relation thereto.....	321
WOOL MARKET.	
CHAPTER 127—An act to provide facilities for marketing wool.....	324
WORLD'S FAIR.	
CHAPTER 128—An act to provide for the collection, arrangement, and display of the products of the State of North Dakota at the World's Columbian Exposition of 1893.....	326
MISCELLANEOUS.	
CHAPTER 129—An act providing for the attaching of certain townships to Ramsey county.....	328
CHAPTER 130—An act attaching a portion of township 151 north, range 62 west, situated in the county of Benson, to the county of Ramsey.....	329
CHAPTER 131—An act authorizing the Governor of the State of North Dakota to restore to the Elk Valley Farming company a parcel of land conveyed to the Territory of Dakota, according to the provisions of Section 1, Chapter 13, of the Special Laws of 1883.....	329
CHAPTER 132—An act to amend Section 8, of Chapter 68, of the General Laws of 1885, entitled "An act establishing the North Dakota Hospital for the Insane and providing for the government of the Dakota Hospitals for the Insane".....	330
CHAPTER 133—An act to amend Section 2, Chapter 161, of Session Laws of 1890, entitled "An act to create an institute for the education of the deaf and dumb of North Dakota, and providing for its support and management.....	331
RESOLUTIONS.	
CHAPTER 134—Joint Memorial of the Senate and House of Representatives of the State of North Dakota, to the Senate and House of Representatives of the United States, asking that the United States Military Wood Reservation on Rock Island, (now a peninsula,) Ramsey county, North Dakota, be donated to the State of North Dakota, for the benefit and use of the militia of said State, to be used for encampment grounds and other purposes.....	332
CHAPTER 135—A joint memorial to Congress for maintenance of Fort Totten Military Reservation.....	333

AUTHENTICATION.

STATE OF NORTH DAKOTA, }
Secretary's Office, Bismarck. }

I hereby certify that the laws contained in this volume are true and correct copies of the original enrolled bills passed by the Legislative Assembly of the State of North Dakota, at the second session thereof, beginning January 6, 1891, and terminating March 6, 1891, now on file in this office, with the exception of clerical errors appearing enclosed in brackets.

IN TESTIMONY WHEREOF, I have hereunto set my hand and
[L. S.] affixed the Great Seal of the State of North Dakota,
this 23d day of May, A. D. 1891.

JOHN FLITTIE,
Secretary of State.

THE LAWS.

ACCOUNTS.

CHAPTER 1.

[H. B. No. 134.]

SYSTEM OF ACCOUNTING BY STATE OFFICERS.

AN ACT to Amend an Act Entitled "An Act to Provide for a System of Accounts for the State Auditor and State Treasurer."

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 3 of Chapter 183 of the Laws of 1890 be amended to read as follows:

Sec. 3. QUARTERLY STATEMENTS.] He shall require the several county treasurers to furnish him with a statement attested by the county auditor on the first days of January, April, July and October of each year, showing the amount of State taxes collected during the preceding three months, and the October statement shall be an abstract of the total receipts by the county treasurer for the preceding year.

§ 2. AMENDMENT.] That Section 7 of Chapter 183 of the Laws of 1890 be amended to read as follows:

Sec. 7. RECORD OF FEES.] Every State officer required by Section 84 of the Constitution of this State, to cover into the State Treasury all fees and profits arising from said offices, shall keep a record of all such fees or profits in a book kept for that purpose, which book shall be the property of the State. They shall report to the State Treasurer quarterly the amount of fees or profits received, verified by oath, and at the same time pay the amount of such fees or profits into the Treasury taking duplicate receipts therefor, one of which shall be filed with the State Auditor forthwith and the Auditor shall charge the Treasurer with the amount thereof.

Approved March 7, 1891.

Sess. Laws 91—6

CHAPTER 2.

[S. B. No. 102.]

TRANSFERRING CERTAIN STATE FUNDS.

AN ACT to Authorize the State Treasurer to Transfer All Moneys Now to the Credit of the Stock Indemnity Fund and All Moneys that may be Hereafter Paid Into Said Fund, Credited to the Stock Indemnity Fund, as Provided by Section 17, Chapter 32 of the General Laws of 1887, and Also the Sum of \$4,543.55, Credited to the Counties of Buford, Flannery and Mountraille, to the General Fund of the State of North Dakota.

Be it Enacted by the Legislative Assembly of the State of North Dakota :

§ 1. TRANSFER OF STOCK INDEMNITY FUND.] That the Treasurer of the State of North Dakota is hereby duly authorized to transfer all moneys now to the credit of the Stock Indemnity Fund and all moneys that may be hereafter paid into said fund as provided for by Section 17, Chapter 32 of the General Laws of 1887, to the General Fund of said State (now credited to the Stock Indemnity Fund as provided for by Section 17, Chapter 32, of the General Laws of 1887 to the General Fund of said State) for the reason that said Section 17, Chapter 32 of the General Laws of 1887, was repealed by an act passed by the Legislative Assembly of the State of North Dakota and approved February 20, 1890.

§ 2. COUNTY FUND.] That the Treasurer of the State of North Dakota is hereby duly authorized to transfer the sum of \$4,543.55, now credited to the counties of Buford, Flannery and Mountraille, to the General Fund of said State; *Provided*, That should it be decided at any time, by the proper authorities, that by a strict construction of the term "counties," as found in Section 5, Chapter 134 of the Laws of 1890, said counties of Buford, Flannery and Mountraille are entitled to said sum of \$4,543.55; then, in that event, said Treasurer is hereby authorized to re-transfer said amount above stated to the credit of said counties of Buford, Flannery and Mountraille.

§ 3. EMERGENCY.] An emergency existing by reason that said amounts should immediately be placed in the General Fund for the use of said State; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 9, 1891.

CHAPTER 3.

[S. B. No. 31.]

TRANSFER OF UNEXPENDED BALANCES OF COUNTY FUNDS.

AN ACT to Amend Chapter 175 of the Laws of 1890, Being An Act to Amend Section 1 of Chapter 51 of the Session Laws of 1889, Referring to the Transfer of Certain County Funds.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 1 of Chapter 175 of the Laws of 1890 be amended to read as follows:

Section 1. TRANSFER OF UNEXPENDED BALANCES.] The board of county commissioners of any county of this State may at any regular meeting thereof, and they are hereby authorized and empowered to transfer to the general fund any unexpended balances, which are or may be in the county treasury, belonging to the road and bridge fund or penalty and interest fund; also any balance that may be remaining in any funding bond fund prior to the passage of this act, when in their opinion such transfer will be beneficial to the county; *Provided*, That no such transfer shall be made until the object for which such fund was created or set apart has been accomplished, and all claims against such fund paid, or if belonging to any fund created for the purpose of paying bonded indebtedness or interest thereon, until such bonds have been redeemed and interest paid.

Approved March 9, 1891.

ADOPTION OF CHILDREN.

CHAPTER 4.

[S. B. No. 196.]

REGULATING THE ADOPTION OF CHILDREN.

AN ACT Entitled An Act Regulating the Adoption of Children.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. PETITION FOR ADOPTION.] Any inhabitant of this State may petition the district court in the county of his residence for leave to adopt a child not his own, and if desired for a change

of the child's name; but the prayer of such petition by a person having a husband or wife shall not be granted unless the husband or wife joins therein.

§ 2. CONSENT OF PARENTS, GUARDIAN, ETC., TO BE HAD.] No such adoption shall be permitted without the consent of such of the parents of the child as may be living, unless it shall appear to the court that either of the parents has abandoned the child or gone to parts unknown, when such consent may be given by the parents, if any, having the charge and care of the child. In case neither of the parents is living, or if both parents or the only living parent shall have abandoned the child, such consent may be given by the guardian, if such child has any, and if there be no guardian, such consent may be given by any of the next of kin residing in this State, and if there be no next of kin residing in this State, or if such next of kin be unknown, such consent may be given by the county judge of the county where the petition is made. In case of a child not born in lawful wedlock, such consent may be given by the mother alone if she is living and has not abandoned such child.

§ 3. WHEN CHILD MUST CONSENT.] If the child is of the age of ten years or upward the adoption shall not be made without his or her consent.

§ 4. NOTICE OF HEARING OF PETITION—PUBLICATION.] If such child has no parent living or has been abandoned by its parents and has no guardian nor next of kin in this State, or if his next of kin, if any, are unknown, the court shall, before hearing the petition, order notice of such hearing and of the time and place thereof, as fixed by court, to be given by publication thereof in some newspaper of general circulation, published in the county where such petition is presented, at least once in each week for three successive weeks, the last publication to be at least ten days before the time fixed for the hearing. If there be no newspaper published in such county, then the notice may be published as aforesaid in some newspaper published at the Capital of the State.

§ 5. PROCEEDINGS ON HEARING—DECREE.] If upon the hearing of the petition so presented and consented unto as aforesaid, the court shall be satisfied of the identity and relations of the persons concerned, and that the petitioner is, or in case of husband and wife, that the petitioners are of sufficient ability to bring up the child and to furnish him suitable nurture and education, and that it is fit and proper that the petition for leave to adopt such child be granted, a decree shall be made setting forth the facts and ordering that from and after the date of the decree the child shall be deemed and taken to be the child of the petitioner or petitioners, and the court may, if desired, in and by the same decree change the name of such child.

§ 6. STATUS OF ADOPTED CHILD.] A child so adopted as aforesaid shall be deemed as respects all legal consequences and incidents of the natural relation of parent and child, the child of

such parent or parents by adoption, the same as if he had been born to them in lawful wedlock; except that such adoption shall not in itself constitute such child the heir of such parent or parents by adoption.

§ 7. EFFECT OF DECREE.] The natural parents of such child shall be deprived by the decree aforesaid of all legal right respecting the child and such child shall be free from all obligations of maintenance and obedience respecting his natural parents.

§ 8. REPEAL.] All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 9, 1891.

AGRICULTURAL COLLEGE.

CHAPTER 5.

[S. B. No. 92.]

PREScribing MANNER OF APPOINTING BOARD OF DIRECTORS.

AN ACT to Amend Sections 3 and 5 of Chapter 160, Session Laws 1890, Providing for the Establishment, Erection and Operation of the North Dakota Agricultural College and Agricultural Experimental Station at Fargo.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 3 of Chapter 160, of the Session Laws of 1890, be amended to read as follows:

Sec. 3. BOARD, HOW APPOINTED—VACANCIES.] The board of directors shall consist of seven members. The first board shall be appointed as hereinafter provided and their term of office shall expire when their successors have been appointed and qualified, during the session of the Legislative Assembly in the year A. D. 1891. During the session of the Legislative Assembly in the year A. D. 1891, and before the third Monday in February of said year, the Governor shall nominate and by and with the consent and advice of the senate appoint a full board of directors, three of whom shall be appointed for the term of two years, and four of whom shall be appointed for the term of four years. Thereafter and at each biennial session of the Legislative Assembly and on or before the third Monday in February during each session, there shall be nominated by the Governor and by and with the advice and consent of the senate, appointed for the term of four years directors to fill vacancies occurring by the expiration of the term of office

of those previously appointed; the Governor shall have power to fill all vacancies in said board which occur when the Legislative Assembly is not in session, and the members of said board shall hold their office until their successors are appointed and qualified, as provided by this act; *Provided, further,* That in all cases where the Governor has made an appointment to fill a vacancy when the Legislative Assembly is not in session, the term of office of the director or directors so appointed shall expire at the next session of the Legislative Assembly.

§ 2. AMENDMENT.] That Section 5 of Chapter 160 be also amended to read as follows:

Sec. 5. MEETINGS OF BOARD—COMPENSATION.] The board of directors shall hold its meetings at the city of Fargo and fix the time of holding the same, providing there shall not exceed six regular meetings in each year. The members of the board shall receive as compensation for their services three (3) dollars per day for each day employed and five (5) cents per mile for each mile actually and necessarily traveled in attending meetings of said board, which sum shall be paid out of the State Treasury upon vouchers of said board duly certified by the president and secretary thereof; *Provided, however,* That the president of said board shall have power to call special meetings whenever in his judgment it becomes necessary.

§ 3. EMERGENCY.] There being an emergency in this, that Section 3 of said act provides for the appointment of the board before the third Monday in February in the present year; therefore, this act shall be in effect from and after its passage and approval.

Approved February 13, 1891.

CHAPTER 6.

[S. B. No. 1.]

APPROPRIATING SECTION OF LAND TO AGRICULTURAL COLLEGE.

AN ACT Designating and Appropriating Section Thirty-six (36), in Township One Hundred and Forty (140), of Range Forty-nine (49) West, in the County of Cass, for the Use of the State Agricultural College, as a Site for that Institution.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPROPRIATION OF LAND.] Consent having been given by the Congress of the United States, by act approved September 4, 1890, to the appropriation by the State, of section 36, in township 140, of range 49 west, situated in the county of

Cass, being a portion of the lands granted to said State for the purpose of common schools, for the use of the State Agricultural College as a site for that institution; said section 36 is hereby designated and appropriated for the use of such Agricultural College, for a site and for the purpose of an Experimental Station; and all moneys hereafter appropriated for the erection of buildings and improvements for such college shall be expended in the erection of such buildings and improvements on such section.

§ 2. SUBJECT TO LEASES IN FORCE.] The appropriation hereby made is subject to all leases of said land by the State now in force.

Approved January 16, 1891.

CHAPTER 7.

[S. B. No. 146.]

ACCEPTING PROVISIONS OF ACT OF CONGRESS.

AN ACT Accepting the Provisions of an Act of Congress, Approved August 30, 1890, and Entitled "An Act to Apply a Portion of the Proceeds of the Public Lands to the More Complete Endowment and Support of the Colleges for the Benefit of Agriculture and Mechanic Arts, Established Under the Provisions of an Act of Congress, Approved July 2, 1862," and Designating the North Dakota Agricultural College as the Sole Beneficiary Under this Act for the State of North Dakota, and Naming the Treasurer of said College as the Recipient of all Funds Payable from the United States Treasury in Accordance with said Act of Congress.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. LEGISLATIVE ASSENT.] The grants of moneys authorized by the act of Congress, approved August 30, 1890, being made subject to the legislative assent of the several states and territories to the purpose of said grants, the assent of the State of North Dakota is hereby given to the purpose of said grants, and the conditions of the above specified act of Congress are hereby accepted by the State of North Dakota.

§ 2. DESIGNATED AS BENEFICIARY.] In accordance with the provisions of said act of Congress, approved August 30, 1890, the North Dakota Agricultural College is hereby designated as the beneficiary under the provisions of said act.

§ 3. TREASURER OF COLLEGE CUSTODIAN OF ALL FUNDS.] The treasurer of the North Dakota Agricultural College, elected in accordance with the provisions of Section 4 of the act of the Legislative Assembly of the State of North Dakota, approved

March 8, 1890, entitled "An act to provide for the establishment, erection and operation of the North Dakota Agricultural College and Agricultural Experiment Station at Fargo," is hereby designated as the officer to receive the sums of money appropriated to the State of North Dakota for the further endowment and support of colleges as provided by the said act of Congress, approved August 30, 1890.

§ 4. STATE TREASURER TO PAY OVER.] The State Treasurer shall immediately pay over to the treasurer of the North Dakota Agricultural College all sums of money received from the United States Secretary of the Treasury, pursuant to the provisions of the said act of Congress, approved August 30, 1890.

§ 5. BOND OF COLLEGE TREASURER.] Said treasurer of the North Dakota Agricultural College shall give a bond in the sum of \$50,000, with not less than four approved sureties, said bond to receive the sanction and approval of the board of directors of said North Dakota Agricultural College and of the Governor of the State of North Dakota.

Approved February 21, 1891.

APPROPRIATIONS.

CHAPTER 8.

[S. B. No. 93.]

MILEAGE AND PER DIEM FOR MEMBERS AND EMPLOYEES OF LEGISLATURE.

AN ACT for the Appropriation of Moneys, for the Payment of Mileage and Per Diem of Members and the Salaries of Employees of the Legislative Assembly of the State of North Dakota, and Authorizing the Payment Thereof.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated as a standing and continuing appropriation, such a sum as may be necessary to pay the mileage and per diem of members and the salaries of employes of the Legislative Assembly.

§ 2. AUDITOR TO DRAW WARRANTS.] The State Auditor is hereby authorized to draw warrants on the State Treasurer for

such sums as may from time to time become due to persons mentioned in Section 1 of this act.

§ 3. EMERGENCY.] An emergency existing in that there is no law authorizing the payment of mileage, per diem and salaries, therefore this act shall be in force and effect immediately after its passage and approval.

Approved February 5, 1891.

CHAPTER 9.

[S. B. No. 97.]

CLERK HIRE FOR STATE OFFICERS.

AN ACT Providing Clerk Hire for the Various State Officers, and Making Appropriation Therefor.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. SALARIES FIXED.] The following amounts are hereby fixed and allowed for clerk hire of the several state offices hereinafter mentioned, which sums shall be paid in monthly payments on the warrant of the State Auditor, commencing January 1, 1891, to-wit:

Governor's office, for private secretary, stenographer and messenger, \$2,000 per annum.

Secretary of State's office, \$2,500 per annum.

Treasurer's office, \$1,500 per annum.

Auditor's office, \$2,500 per annum.

Attorney General's office, nine hundred (900) dollars per annum.

Superintendent of Public Instruction's office, \$1,800 per annum.

Commissioner of Insurance office, \$2,100 per annum.

Commissioner of Agriculture and Labor's office, \$1,500 per annum.

Secretary of the Board of Railroad Commissioners, \$1,000.

Provided, That all clerical appointments shall first be referred to the Governor for his approval.

§ 2. APPROPRIATION.] There is hereby annually appropriated out of any money in the State Treasury not otherwise appropriated, a sum sufficient to carry out the provisions of this act.

§ 3. REPEAL.] Chapter 9 of the Laws of 1890, approved December 19, 1889, and Chapter 10 of the Laws of 1890, approved March 19, 1890, and all acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 4. EMERGENCY.] There being an emergency existing by reason of there being no adequate provision of law for the pay-

ment of clerk hire for the several State offices, this act shall take effect and be in force immediately after its passage and approval.
Approved February 21, 1891.

CHAPTER 10.

[S. B. No. 98.]

FOR SALARIES OF STATE OFFICERS.

AN ACT Making a Standing Annual Appropriation for the Payment of the Salaries of the Various State Officers.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated out of any funds in the State Treasury not otherwise appropriated, for the term commencing January 1, 1891, and ending June 30, 1891, and annually thereafter, such sums as may be necessary to pay the salaries of the various state officers, as the same may be prescribed by the Constitution or by legislative enactment.

§ 2. SALARIES PAID MONTHLY.] Unless otherwise provided by the Constitution or by legislative enactment, the State Auditor is directed to draw his warrant for the said salaries monthly as the same become due.

§ 3. EMERGENCY.] It is necessary and advisable that the State officers should receive their salaries as the same become due, and at a time long prior to July 1st next, and therefore an emergency exists; therefore, this act shall take effect and be in full force immediately after its passage and approval.

Approved February 27, 1891.

CHAPTER 11.

[H. B. No. 136.]

MAINTENANCE OF PUBLIC OFFICES.

AN ACT Appropriating Money for the Maintenance of the Public Offices of the State.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated out of any money in the State Treasury not otherwise appropriated, the sum of \$3,500, or so much thereof as may be necessary,

for the maintenance of the public offices of the State from January 1, 1891, to June 30, 1891, and annually thereafter the sum of \$7,000, or so much thereof as may be necessary; said appropriation shall be for heating and lighting the public offices of the State, for care of the same and for expenses generally which may be necessary to the maintenance and for necessary repairs upon the Capitol Building, and the State Auditor is empowered to draw his warrant for such sums as he shall deem to be due on accounts or claims against such appropriation upon approval thereof of the Governor, and the State Treasurer is hereby directed to pay such warrants from the general funds of the State.

§ 2. EMERGENCY.] There being no appropriation to provide for the maintenance of the public offices, an emergency exists, and therefore this act shall take effect and be in force from and after its passage and approval.

Approved February 25, 1891.

CHAPTER 12.

[H. B. No. 244.]

COMMITTEE ROOMS FOR LEGISLATURE.

AN ACT Making an Appropriation to Pay Certain Expenses Incurred by the Second Legislative Assembly of the State of North Dakota.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of eight hundred (800) dollars, or so much thereof as may be necessary to pay the expense of committee rooms, furniture for the same, fuel and lights and such other incidental expenses as either the House of Representatives or Senate authorized to be incurred.

§ 2. AUDITOR TO DRAW WARRANTS.] The State Auditor is hereby authorized to draw his warrant upon the State Treasury in payment of such accounts upon the presentation to him of itemized bills, properly certified by the officers directed and authorized to incur the expense.

§ 3. EMERGENCY.] An emergency exists in that it was necessary to incur certain expenses for committee rooms to properly transact the business of the Second Legislative Assembly, and such expenses should be paid long prior to July 1st, therefore this act shall take effect and be in force immediately after its passage and approval.

Approved March 6, 1891.

CHAPTER 13.

[S. B. No. 58.]

AGRICULTURAL COLLEGE BUILDINGS.

AN ACT Providing for an Appropriation for the Erection of Buildings for the State Agricultural College at Fargo, and for the Contingent Expenses Incident to the Construction Thereof.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPROPRIATION.] That there is hereby appropriated out of the moneys in the State Treasury not otherwise appropriated, the following sum of money for the erection of suitable buildings for the State Agricultural College and for the contingent expenses incident to the construction thereof, namely: \$25,000.

Approved February 27, 1891.

CHAPTER 14.

[S. B. No. 141.]

MAINTENANCE OF DEAF AND DUMB ASYLUM.

AN ACT Providing for an Appropriation for the Maintenance of the Deaf and Dumb School at Devils Lake.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPROPRIATION.] That there is hereby appropriated the sum of \$16,500, or as much thereof as may be necessary, out of any moneys in the State Treasury not otherwise appropriated, for the purpose of paying the current and contingent expenses of the School for the Deaf and Dumb at Devils Lake for the two fiscal years beginning April 1, 1891:

For maintenance \$16,500 00

Provided, That of the above sum for maintenance, not more than \$720 shall be paid for rent of building now occupied, in any one year.

§ 2. EMERGENCY.] An emergency exists in this, that there has been no provision made for the maintenance of the School for the Deaf and Dumb at Devils Lake; therefore, this act shall take effect from and after its passage and approval.

Approved February 27, 1891.

CHAPTER 15.

[S. B. No. 66.]

MAINTENANCE OF INSANE ASYLUM.

AN ACT to Provide for an Appropriation for the Current and Contingent Expenses for the Asylum at Jamestown for the Insane and for Making Needed Permanent Improvements.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated the sum of \$117,150, or so much thereof as may be necessary, out of any moneys in the State Treasury not otherwise appropriated, for the purpose of paying the current and contingent expenses of the Hospital for the Insane at Jamestown, as hereinafter mentioned, for the fiscal years of 1891 and 1892, beginning March 1, 1891, to-wit:

For maintenance	\$50,000 00
For employes' wages	32,000 00
For fuel and lights	20,000 00
For incidental expenses	1,000 00
For drugs and medicine	1,500 00
For repair fund	1,500 00
For returning patients and burial of dead	1,500 00
For plumbing	250 00
For fire apparatus	1,000 00
For beds and bedding	1,200 00
For furniture	1,000 00
For library and amusements of patients	500 00
For conveyance for use of patients	300 00
For repairing damage to smoke stack	600 00
For supplies to engine room	1,600 00
For paints and painting	1,000 00
For hose house	400 00
For hot house	500 00
For cold storage and ice house	500 00
For improvements of grounds	300 00
For farm implements and wagons	500 00

§ 2. EMERGENCY.] An emergency exists in this, that the fiscal year for which this appropriation is made will begin before July 1st and the funds hereby appropriated in part will be needed before that time; therefore, this act shall take effect from and after its passage and approval.

Approved March 2, 1891.

CHAPTER 16.

[S. B. No. 99.]

FOR DEAF AND DUMB ASYLUM BUILDING.

AN ACT Providing for an Appropriation of Money for the Erection of a Suitable Building for the Deaf and Dumb Asylum at the City of Devils Lake, Ramsey County, North Dakota, and for the Contingent Expenses Incident Thereto.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPROPRIATION.] That there is hereby appropriated out of any money not otherwise appropriated in the hands of the State Treasurer the sum of \$10,000 for the erection of suitable buildings at the city of Devils Lake, Ramsey county, North Dakota, for the Deaf and Dumb Asylum and for the contingent expenses incident thereto.

Approved February 27, 1891.

CHAPTER 17.

[H. B. No. 250.]

TO IMPROVE AND PERFECT THE WATER SUPPLY.

AN ACT Appropriating Money to Improve and Perfect the Water Supply at the Hospital for Insane at Jamestown.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated out of any funds in the State Treasury, not otherwise appropriated, the sum of \$7,500, (or so much thereof as may be necessary) to be expended in improving and perfecting the water supply at the Hospital for Insane at Jamestown.

§ 2. RESTRICTION.] The appropriation of \$7,500, hereby made, shall be expended for water supply purposes only at the Hospital for Insane at Jamestown, under the direction of the Board of Trustees for that institution, with the advice and consent of the Governor of the State of North Dakota; and any and all improvements made in the said water supply shall not be paid for.

neither shall this appropriation become available, until such improvements have been accepted and approved by the Governor.

§ 3. EMERGENCY.] There being an emergency in that the water supply at the Hospital for Insane at Jamestown, is inadequate to the demand for the same, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 6, 1891.

CHAPTER 18.

[S. B. No. 65.]

MAINTENANCE AND IMPROVEMENT OF PENITENTIARY AT BISMARCK.

AN ACT Providing for an Appropriation for the Current and Contingent Expenses of the Penitentiary at Bismarck, and for Making Needed Permanent Improvements.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. MAINTENANCE.] That there is hereby appropriated the following sums of money, or as much thereof as may be necessary, out of any moneys in the State Treasury not otherwise appropriated, for the purpose of paying the current and contingent expenses of the Penitentiary at Bismarck for two years, beginning with March 1, 1891.

Warden's salary.....	\$	3,000 00
Deputy warden's salary.....		2,000 00
Assistant gate keeper and clerk.....		1,800 00
Teacher and librarian.....		1,200 00
Officers, guards and employes.....		7,200 00
Maintenance.....		16,000 00
Fuel and lights.....		5,000 00
Chaplain.....		500 00
Repairs, improvements, etc.....		1,200 00
Incidentals, etc.....		1,200 00
Physician and medicine.....		1,000 00
Transportation, clothing and aid to discharged prisoners.....		1,500 00
Clothing, bedding, etc.....		1,800 00
Books, stationery, fixtures, etc., for the school.....		300 00
		\$ 43,700 00

§ 2. PERMANENT IMPROVEMENTS.] That there is hereby appropriated the following sums of money or as much thereof as may be necessary out of any moneys in the State Treasury not

otherwise appropriated for the purpose of making needed permanent improvements at the State Penitentiary at Bismarck:

For permanent water system, including, hydrants, mains, connections, excavations, labor and incidentals.....	\$ 8,000 00
For sewerage system.....	2,000 00
For finishing off rooms in main building and chapel and extending steam heat.....	1,000 00
For ice house.....	100 00

Provided, That the board of trustees of said Penitentiary are hereby authorized and empowered to enter into a contract on behalf of this State with the Bismarck Water Company or its successors for a supply of water for said Penitentiary for the term of five years, at a rate not exceeding forty (40) cents per thousand gallons metre measure; and, *Provided further*, That at the expiration of said contract the same may be renewed at a rate per thousand gallons, metre measure, not exceeding forty (40) cents; and *Provided, further*, In case of any disagreement between said board of trustees and said water company, or its successors, as to the rate per thousand gallons, or in any other particular, either party may apply to the district court of Burleigh county, and said court may determine and fix a reasonable price therefor, or determine differences in other particulars according to law; *Provided, further*, That the said Bismarck Water Company shall by a resolution entered upon the records of said company and certified in writing to the board of trustees of said Penitentiary, to be approved by the Attorney General, accept the provisions and restrictions of this act before the said board of trustees shall expend any of the money hereby appropriated with a view to connect with and to receive water from the mains of said Bismarck Water Company.

§ 3. EMERGENCY.] An emergency exists in this, that there is no provision made for the State Penitentiary after March 7, 1891, therefore this act shall take effect from and after its passage and approval.

Approved February 27, 1891.

CHAPTER 19.

[S. B. No. 137.]

MAINTENANCE OF UNIVERSITY AT GRAND FORKS.

AN ACT Making Appropriations for the Maintenance of the University of North Dakota.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPROPRIATION.] That there is hereby appropriated out of any moneys in the State Treasury not otherwise appropriated, the sum of \$60,700, or so much thereof as may be necessary for

the purpose of maintaining the University of North Dakota for the two years ending October 31, 1893.

For salaries of president and instructional force	\$41,800
For apparatus (biological, chemical and physical laboratories).....	2,000
For chemicals for laboratories	1,500
For library	3,100
For incidental	3,000
For ground improvements.....	300
For repairs to buildings	1,500
For fuel and lights.....	3,000
For water supply.....	900
For engineer.....	1,800
For janitor.....	900
For secretary	1,000

§ 2. EMERGENCY.] An emergency existing in that the appropriations made by the first Legislative Assembly expire, by limitation of the act, on March 1, 1891, and a portion of the amount herein appropriated will be needed from that date until the end of the school year; therefore, this act shall be in force immediately after its passage and approval.

Approved February 27, 1891.

CHAPTER 20.

[S. B. No. 61.]

MAINTENANCE OF NORNAL SCHOOL AT VALLEY CITY.

AN ACT to Provide Funds for the Construction and Maintenance of the State Normal School at Valley City.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated out of any funds in the State Treasury not otherwise appropriated the sum of \$5,000 for the construction of the State Normal School at Valley City and for the furnishing the same. For the purpose of maintaining the said State Normal School for the two years ending March 1, 1893, the following appropriations are made, viz.:

For salary of teachers the sum of.....	\$4,000
For fuel.....	300
For incidental expenses	700

Approved March 2, 1891.

CHAPTER 21.

[S. B. No. 60.]

FOR ERECTION OF SOLDIERS' HOME AT LISBON.

AN ACT Appropriating Money for the Erection of a Soldiers' Home at Lisbon, North Dakota, and for the Contingent Expenses Incident Thereto.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury not otherwise appropriated, the sum of \$10,000, for the erection of a suitable Soldiers' Home at Lisbon, Ransom county, North Dakota, and for the contingent expenses incident thereto.

Approved February 27, 1891.

CHAPTER 22.

[H. B. No. 189.]

EXPENSES INCIDENT TO THREATENED INDIAN OUTBREAK.

AN ACT Providing for an Appropriation to Pay the Expenses Incurred by the Governor of the State During the Recent Threatened Indian Outbreak.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPROPRIATION.] That there is hereby appropriated out of the moneys in the State Treasury not otherwise appropriated, the sum of \$1,600, or so much thereof as may be necessary, to meet the expenses incurred by the Governor of the State in supplying arms to citizens, preparing the State Militia for service, and any other expenses he may have incurred upon the part of the State in connection with the threatened Indian outbreak.

§ 2. EMERGENCY.] An emergency existing in that there has been no moneys appropriated for this purpose, therefore this act shall take effect from and after its passage and approval.

Approved February 27, 1891.

CHAPTER 23.

[H. B. No. 157.]

FOR INVESTIGATION AND ANALYSES OF SUGAR BEETS
AND COAL.

AN ACT to Reimburse Prof. E. J. Babcock for Expenses Incurred in Making Investigations Regarding the Adaptability of the State of North Dakota to the Culture of Sugar Beets, and for Investigations Regarding the Value of North Dakota Coals.

WHEREAS, The First Legislative Assembly of the State of North Dakota passed a Concurrent Resolution instructing the Commissioner of Agriculture and Labor to secure the services of an expert, or in such other way as might seem in his judgment best, to thoroughly test or cause to be tested the qualities of the soil of North Dakota with reference to its adaptability to the culture of the sugar beet; and

WHEREAS, The Commissioner of Agriculture and Labor, in obedience to the resolution aforesaid, had such investigations made by Prof. E. J. Babcock, of the State University, the report of whose work has been submitted; and

WHEREAS, The First Legislative Assembly aforesaid made no provision for the payment of the expenses of the investigations it commanded to be made; and

WHEREAS, Prof. E. J. Babcock has also, at the request of the said Commissioner of Agriculture and Labor, made certain investigations concerning the chemical composition and heating power of the coal mined within the State, and has submitted a report thereon, the information contained therein being of much value to the State and the people thereof; therefore,

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPROPRIATION.] That there is hereby appropriated, out of any funds in the State Treasury not otherwise appropriated, the sum of one hundred and thirty-two (132) dollars to reimburse the said Prof. E. J. Babcock for his investigations relating to sugar beets and coal.

§ 2. EMERGENCY.] Whereas, an emergency exists in that the debt which this act seeks to liquidate is justly due and owing to Prof. E. J. Babcock, and that after his having generously donated to the State much valuable service in this work, and himself advanced the money to pay the expenses of the investigation, he ought not to be asked to wait till July, 1891, to be reimbursed; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 6, 1891.

CHAPTER 24.

[S. R. No. 135.]

FOR RELIEF OF DESTITUTE.

AN ACT to appropriate Money for the Relief of the Destitute Persons in North Dakota.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated out of any funds in the State Treasury, not otherwise appropriated, the sum of \$7,000 for each year, or so much thereof as may be necessary, to be expended by the Commissioner of Agriculture and Labor, by and with the advice and consent of the Governor, for the relief of the needy settlers in such counties, as by reason of their having reached their constitutional limit of indebtedness, may be unable to provide the necessaries of life needed by destitute residents of said counties.

§ 2. ACCOUNTS, HOW AUDITED.] The State Auditor is hereby authorized to audit and allow the accounts of said Commissioner of Agriculture and Labor when said accounts have been approved by the Governor, Secretary of State and Attorney General, and he shall issue his warrants on the State Treasurer for the amount of said accounts, which warrants shall be paid by the State Treasurer whenever there are funds in the Treasury applicable thereto.

§ 3. EMERGENCY.] There being no law in force allowing such an appropriation and this being deemed an emergency, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 6, 1891.

CHAPTER 25.

[H. B. No. 234.]

FOR COMPILATION OF LAWS.

AN ACT Providing for an Appropriation of \$8,500 for Compiling the Laws of the State of North Dakota.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated out of any funds in the State Treasury, not otherwise appropriated, the

sum of \$8,500 for compiling the Laws of the State of North Dakota; the said sum so appropriated shall be paid to the compilers to be appointed by the Governor and shall be for services actually rendered, and shall be paid on the warrant of the State Auditor, approved by the Governor.

Approved March 11, 1891.

CHAPTER 26.

[S. B. No. 186.]

MAINTENANCE OF NORMAL SCHOOL AT MAYVILLE.

AN ACT Providing for an Appropriation for the Maintenance of the State Normal School at Mayville, N. D.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPROPRIATION.] That there is hereby appropriated out of any moneys in the State Treasury not otherwise appropriated the sum of \$6,000 for the maintenance of the State Normal School at Mayville, N. D.

Approved March 6, 1891.

CHAPTER 27.

[S. B. No. 107.]

BOUNTY FOR POTATO STARCH.

AN ACT Providing an Appropriation for Manufacture of Potato Starch in the State of North Dakota.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated out of any funds in the State Treasury, not otherwise appropriated, for the time commencing January 1, 1891, and ending January 1, 1893, the sum of \$3,000, or so much thereof as may be necessary to pay the bounty offered by the State of North Dakota for the manufacture of potato starch in the State of North Dakota.

Approved March 7, 1891.

CHAPTER 28.

[H. B. No. 215.]

FOR BRICK FURNISHED PENITENTIARY.

AN Act Providing for an Appropriation to Pay John A. McLean for Brick Furnished the Dakota Penitentiary at Bismarck, North Dakota.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated out of moneys in the State Treasury, not otherwise appropriated, the sum of one hundred and six (106) dollars for the purpose of paying John A. McLean for furnishing, at the request of the Warden of the State Penitentiary, 30,000 brick and hard brickbats for the use of said Penitentiary.

§ 2. EMERGENCY.] An emergency existing in that there is no money appropriated for this purpose, therefore that this act shall take effect from and after its passage and approval.

Approved March 6, 1891.

CHAPTER 29.

[S. B. No. 100]

FOR SELECTING AND ACQUIRING TITLE TO PUBLIC LANDS.

AN ACT to Appropriate Money to Pay the Expenses of Selecting and Acquiring Title to the Lands Donated by Congress to the State of North Dakota for its Public Institutions, and to Carry Out the Provisions of "An Act Providing for the Organization of the Board of University and School Lands," Approved March 20, 1890.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated out of any funds in the Treasury not otherwise appropriated, the sum of \$7,000, or so much thereof as may be found necessary, for the salary and expenses of the selecting agent, clerk hire, record books, blanks and such other expenses as shall be necessarily incurred by the Board of University and School Lands in selecting and securing title to said lands.

§ 2. EMERGENCY.] Whereas, there are many thousand of acres of valuable government lands in this State upon which fil-

ings of different character have been made, but which have long since been abandoned, and contests are necessary to clear the records of the United States land offices of such lands before the same can be open to selection, it is hereby made the duty of the Board of University and School Lands to proceed to contest, or cause to be contested, the filings now upon such abandoned claims as, after proper investigation are, in their judgment, of sufficient value to warrant the expense of such contest, for the purpose of selection and acquisition of same, as provided for in the enabling act granting the same; and to meet the cost and expenses incident to such contest, there is appropriated out of the funds in the Treasury not otherwise appropriated, the sum of \$5,000 or so much thereof as may be found necessary in carrying out the provisions of this act.

Approved February 28, 1891.

CHAPTER 30.

[S. B. No. 164.]

FOR DISPLAY OF PRODUCTS AT WORLD'S FAIR.

AN ACT to Make an Appropriation for the Collection, Arrangement and Display of the Products of the State of North Dakota at the World's Columbian Exposition of 1893, and to Provide for the Expenses of the State Commissioners Thereof.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated the sum of \$25,000, or so much thereof as may be necessary, out of any money in the State Treasury not otherwise appropriated, to be used for the collection, arrangement and display of the products of the State of North Dakota at the World's Columbian Exposition of 1893, and to pay the actual expenses of the State Commissioners necessarily incurred in the performance of their duties.

§ 2. WARRANTS, HOW DRAWN.] The State Auditor is hereby directed to draw his warrants on the State Treasurer from time to time on the requisition of said Board of Commissioners, signed by its president and secretary and approved by the Governor, and accompanied by estimates of the expenses, to the payment of which the money so drawn is to be applied; *Provided, however,* That no more than \$5,000 thereof shall be drawn in the year 1891; no more in 1892 than \$10,000, or in case \$5,000 is not drawn in 1891, the balance of said appropriation of \$5,000 for 1891 may be drawn during 1892, as well as the \$10,000 specially appropriated; the

balance of the appropriation may be drawn during 1893, or so much thereof as may be necessary.

§ 3. EMERGENCY.] Whereas, an emergency exists in that the time is limited during which said Board has to perform its duties, and it is necessary that said Board shall begin its labors immediately; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 9, 1891.

CHAPTER 31.

[H. B. No. 205.]

PAY OF JAMES M. GLEASON, JANITOR.

AN ACT Making an Appropriation to Pay James M. Gleason for Labor as Janitor at the Capitol.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPROPRIATION.] That there is hereby appropriated, out of any funds in the State Treasury, not otherwise appropriated, the sum of one hundred and twenty-four (124) dollars to pay James M. Gleason for labor at the Capitol as assistant janitor of the House, and the State Auditor is authorized to draw his warrant on the State Treasurer for said amount and in favor of said James M. Gleason.

Approved March 6, 1891.

CHAPTER 32.

[S. B. No. 114.]

FOR LIBRARY FOR STATE SUPERINTENT OF PUBLIC INSTRUCTION.

AN ACT Making an Appropriation for a Library in the Office of the State Superintendent of Public Instruction.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated out of any funds in the State Treasury, not otherwise appropriated, the sum of three hundred (300) dollars annually, to be paid by warrant of the State Auditor on the State Treasurer upon the presentation of an itemized bill in due form by the State Superin-

tendent, for the purchase of reference and pedagogical books for State Educational Library in the office of the Superintendent of Public Instruction.

Approved March 9, 1891.

ARTESIAN WELLS.

CHAPTER 33.

[H. B. No. 118.]

PROVIDING FOR ISSUING OF BONDS BY CIVIL TOWNSHIPS.

AN ACT to Enable Civil Townships to Issue Bonds for the Purpose of Sinking Artesian Wells, and to Provide for Locating the Same.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. BONDS MAY BE VOTED.] That at any annual or special town meeting in any regularly organized township in this State, the question of bonding said township for the purpose of sinking one or more artesian wells, or of improving natural springs in said township, may be submitted to the vote of the people; *Provided*, The notices posted by the town clerk, as required by law, contain a notice of such proposed bonding.

§ 2. DUTIES OF SUPERVISORS.] When three-fourths of the legal voters voting at such town meeting as described in Section 1 of this act shall vote in favor of bonding, it shall be the duty of the town board of supervisors, to forthwith issue the bonds of said township in the denomination or denominations which they shall deem best, but which shall not aggregate more than a given amount specified by vote at the aforesaid town meeting. The concurrence of a majority of the township board of supervisors shall be sufficient to legalize the issuing of township bonds under this act. All bonds issued under this act shall bear interest at the rate of seven (7) per cent. per annum, payable semi-annually; the bonds and the interest thereon to be paid at such place and times as the township board shall designate; *Provided, however*, That said bonds shall be payable in not less than five nor more than ten years.

§ 3. BONDS, HOW ISSUED.] Said bonds shall be signed by the chairman of the board of township supervisors, and attested by the clerk of said township; said bonds shall also be verified by a certificate signed by both chairman and clerk that the bonds

are issued in accordance with the provisions of this act, and are within the debt limit.

§ 4. BIDS FOR BONDS.] It shall be the duty of the township board to receive sealed bids for the purchase of said bonds, after having given thirty days' notice in such manner as they may deem best; said bonds shall be sold to the highest bidder for cash, and shall not be sold for less than their par value; *Provided*, That the township board of supervisors shall have authority to reject all bids and postpone the sale of said bonds for a time not to exceed ten days.

§ 5. FUNDS, HOW PAID OUT.] The proceeds arising from the sale of said bonds shall be paid by the purchaser thereof to the treasurer of said township, or to his authorized agent upon the delivery of said bonds; and such proceeds shall be paid out only on the order of the township board. The treasurer of any township board may be required to give additional bonds, with sureties to be approved by the board of township supervisors, before or after the proceeds of said bonds are turned over to him.

§ 6. TAX LEVY FOR INTEREST ON BONDS.] Said board of township supervisors shall levy a tax at the time and in the manner that other taxes are levied, sufficient to pay the interest as it falls due on the said bonds and also a sinking fund tax sufficient to take up the bonds when they become due, neither the interest fund nor the sinking fund shall be used for any other purpose than that for which it is levied; *Provided, however*, That the sinking fund may be deposited or loaned in any safe place for the purpose of earning interest, which shall be credited to the sinking fund, and *Provided, further*, That any balances remaining in said fund after the payment of said bonds shall be transferred to any other township fund or funds designated by the township board of supervisors.

§ 7. TREASURER'S FEES—WELLS, HOW LOCATED.] The township treasurer shall receive one per cent. for handling the proceeds received from the sale of said bonds. Upon the payment of any of the said bonds or the coupons thereto attached, it shall be the duty of the township treasurer to cancel the same by writing the word "paid" across the face of the same and the date of payment. The township treasurer shall also keep a record of these bonds showing date, maturity, amount, rate of interest, to whom and where payable; and when any interest coupon is paid, it shall be credited upon said record, giving date of payment. All moneys derived from the sale of bonds, as provided in this act, shall be kept as a separate fund and shall be expended by the township board of supervisors in making such wells as a majority of the freeholders of said township shall think desirable; *Provided*, That such portion of said fund as shall not be used in making said wells, may at the discretion of the supervisors be transferred to the sinking fund for the payment of said bonds. Before locating a well under the provisions of this act it shall be the duty

of the board of supervisors to cause to be made a survey of the natural waterways of their township, and the first well shall be placed as nearly as practicable, at the head of the longest natural waterway in said township, unless by a vote of two-thirds of the freeholders of said township it is located at some other stated point. All subsequent wells shall be locate by a majority vote of the legal voters in said township.

Approved March 11, 1891.

CHAPTER 34.

[S. B. No. 148.]

TO ENCOURAGE CONSTRUCTION OF ARTESIAN WELLS.

AN ACT to Encourage the Construction of Artesian Wells and Defining the Rights and Liabilities of Persons, Corporations and Companies Constructing said Wells for the Purpose of Power and for the Purpose of Irrigating Agricultural Lands.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. WHO MAY CONSTRUCT ARTESIAN WELLS.] It shall be lawful for any person or persons, or association of persons, to construct artesian wells upon any lands owned or leased by them for the purpose of power, or the irrigation of lands for agricultural purposes, and for any and all purposes for which said water from such wells may be utilized.

§ 2. SURFACE WATER, HOW DISPOSED OF.] When any person, persons or association of persons shall desire to dispose of any surplus water from any artesian well, pond or storage reservoir, he or they shall make application to the county court in and for the county in which the lands over or through which it is desired to conduct such waters, for an order for a hearing to determine whether any lands over which such water is proposed to be conducted, will be damaged to any extent beyond the resultant benefit, and if so, to what extent.

§ 3. NOTICE OF HEARING BEFORE COURT.] At the time of applying for, and the issuing of such order, the judge of the county court shall also issue notices to the party or parties whose lands are affected, to appear and be heard at the time of such hearing, and prove any damage that the proposed water will incur to him or them; such notices shall be served by the sheriff or any other officer authorized to serve processes in civil cases.

§ 4. HEARING AND DETERMINATION OF DAMAGES.] The order for hearing shall issue at least ten (10) days prior to the day upon which the hearing is to be held, and if the person or persons whose lands are affected, can show by affidavit that they are not ready to be heard, an adjournment may be taken for a period not exceeding ten (10) days, when the hearing must take place; and if the judge determine that the damage will be in excess of the resultant benefit, he shall issue his order to the party or parties seeking such damage, directing such party or parties to pay such amounts as he may find and determine to the person or persons over whose land the drainage is to be had; *Provided*, That no routes for waterways shall be located without the written consent of the owner, within fifteen rods of the dwelling house, or other buildings on the premises, or across any orchard or garden, without such written consent.

§ 5. DRAINAGE DITCHES.] In drawing any surplus waters from any artesian well, pond, or storage reservoir, over any adjacent lands, they shall be confined in a ditch or drain not exceeding four (4) feet in width, unless the party or parties otherwise agree. The party or parties obtaining the drainage shall provide reasonable means for crossing any ditch constructed by him or them, in as many places as may be determined necessary by the county judge at the time of holding the hearing.

§ 6. BENEFITS—APPEALS FROM DECISION OF COURT.] In estimating the amount of damage, if any, on account of drainage, the judge shall take into consideration any benefit that may accrue to the party or parties over whose land or lands the drainage is affected by reason of the moisture furnished by the flowing water; and if the benefit, in the judgment of the court, is equal to the amount of damage, if any, then the court shall order that the drainage shall be given without compensation; *Provided*, That either party, feeling aggrieved by the decision of the county court, may appeal to the district court, in and for the district wherein said lands are located, in such manner as is or may be provided by law for appeals, and the amount of such damages upon the appeal, when demanded by either party, shall be determined by a jury, and the question of damages shall be tried as in other civil cases; *Provided, further*, That the construction of said waterways or ditches shall not be delayed by the appeal if the amount of the damages assessed shall be deposited with the clerk of the said district court, together with a sufficient bond to be approved by said clerk, conditioned to pay any excess that may be adjudged by said district court.

§ 7. WATERWAYS ON RAILROAD RIGHT OF WAY.] Whenever it is necessary to construct a waterway from an artesian well, pond or storage reservoir across the right of way of any railroad company, it shall be the duty of said railroad company, when notified by the party or parties constructing said waterway so to do, to make and maintain a suitable culvert. Notice, in writing, to make

such opening and to construct such culvert may be served on such company, as provided in the service of summons at least thirty days before such railroad company shall become liable; in case such railroad company shall refuse or neglect to comply with the provisions of this section, it shall be liable to pay a penalty of ten (10) dollars for each day's refusal or neglect to make such opening and construct such culvert. The county attorney of the county in which such railroad company shall have refused or neglected to comply with the provisions of this section, shall, upon complaint being made by the party or parties interested, collect such penalty, and it shall be his duty to prosecute the same to a final determination in any court having competent jurisdiction.

§ 8. PENALTY FOR INTERFERING WITH ARTIFICIAL WATER COURSES.] Any person or persons who shall willfully open, close, change or interfere with any head gates, water boxes, pipes or any other appliances for controlling or utilizing water, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than ten (10) dollars nor more than one hundred (100) dollars, and may be imprisoned in the county jail not exceeding ninety (90) days.

§ 9. WATER DITCHES TO BE KEPT IN REPAIR.] It shall be the duty of the proprietor or proprietors of artesian wells constructed under the provisions of this act to keep all ditches and waterways in good repair at all seasons of the year, and for the purpose of making the necessary repairs they shall have the right to enter upon the lands where such ditches or waterways are located, along the line thereof, taking care that no unnecessary damage be done; and whatever actual damage may be done shall be paid to the owner of said lands; *Provided*, That whenever said ditches or waterways have been injured or put out of order by the acts of any person, or by the animals or stock of such person, it shall be his duty to repair the same at his own expense, and no compensation for damages shall be recovered by such owner.

§ 10. WATER FOR PUBLIC USE.] Whenever waterways or ditches are located or constructed along any public highway, the water which may be flowing therein shall be for the use of the public; *Provided*, That when any owner or occupant of lands adjoining or lying along such highway desires to use any portion of the water flowing in such waterways or ditch, he shall make application to the proprietor or proprietors of said artesian well, for the use of said water, and the adjustment of the amount of rental to be paid to said proprietor or proprietors for the use of same and the terms and conditions therefor.

§ 11. RIGHT OF WAY ON SCHOOL LANDS.] When any waterway or ditch must necessarily be constructed across any of the school lands of the State, except in the highway along the same, permission to construct the same may be obtained from the "county board of appraisal of the common school lands," upon an appli-

cation in writing, duly verified, showing the location and character of such lands, together with a proper plat showing the location of the proposed route across the same, and the permission may be granted under such conditions as shall be prescribed by them, with the approval of the Board of University and School Lands.

§ 12. EMERGENCY.] Whereas, it is important for the best interests of this State that the system of irrigation provided for in this act should be set in motion at once, to promote the raising of crops during the coming season, it is hereby declared that an emergency exists, and that this act shall be in full force and effect from and after its passage and approval.

Approved March 6, 1891.

ASSIGNMENTS.

CHAPTER 35.

[S. B. No. 179]

AMENDING CIVIL CODE IN RELATION TO ASSIGNMENT FOR BENEFIT OF CREDITORS.

AN ACT to Amend Section 2027 of Title III of Part II of the Civil Code.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 2027 of Title III of Part II of the Civil Code, shall be amended so as to read as follows:

Sec. 2027. ASSIGNMENT, WHEN ALLOWABLE.] An insolvent debtor may, in good faith, execute an assignment of property to one or more assignees, in trust towards the satisfaction of his creditors, in conformity to the provisions of this title; subject, however, to the provisions of this Code relative to trusts and to fraudulent transfers and to the restrictions imposed by law upon assignments by special partnerships, by corporations or by other specified classes or [of] persons; *Provided, moreover,* That such assignment shall not be valid if it be upon, or contain any trust or condition by which any creditor is to receive a preference or priority over any other creditor; but in such case the property of the insolvent shall become a trust fund to be administered in equity, in the district court, and shall inure to the benefit of all the creditors in proportion to their respective claims or demands; and *Provided, further,* That no transaction shall be deemed to be

an assignment within the provisions of this chapter, unless the instrument on which it is based, shall appear on its face to have been intended by the parties thereto as an assignment.

Approved March 6, 1891.

BLIND ASYLUM.

CHAPTER 36.

[H. B. No. 114.]

LOCATING BLIND ASYLUM IN PEMBINA COUNTY.

AN ACT Providing for the Location of a Blind Asylum in the County of Pembina, State of North Dakota, at Such Place in the County of Pembina as the Qualified Electors of Said County may Determine at an Election to be held as Prescribed by the Legislative Assembly of the State of North Dakota, with a Grant of Land as Provided in Section 216, Article 19, of the Constitution of the State of North Dakota.

WHEREAS, The Constitution of the State of North Dakota reads as follows: "The following public institutions of the State are permanently located at the places hereinafter named, each to have the lands specially granted to it by the United States, in the act of Congress, approved February 22, 1889, to be disposed of and used in such manner as the Legislative Assembly may prescribe, subject to the limitations provided in the article on School and Public lands contained in this Constitution."

"A blind asylum, or such other institution as the Legislative Assembly may determine, at such place in the county of Pembina as the qualified electors of said county may determine at an election to be held as prescribed by the Legislative Assembly, with a grant of thirty thousand acres." Therefore,

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. LOCATION SUBMITTED TO ELECTORS.] The Blind Asylum of the State of North Dakota is hereby located in the county of Pembina at such place as the qualified electors of said county may determine at an election or elections to be called as hereinafter provided.

§ 2. LAND GRANT.] There is hereby granted to said Blind Asylum, for its use and benefit forever, 30,000 acres of land, as granted to the State of North Dakota by act of Congress, approved February 22, 1889, which said land is to be set apart for said Blind Asylum, as other lands are for similar charitable

institutions, under such rules and regulations as may be hereinafter prescribed by the Legislative Assembly.

§ 3. HOW VOTE SHALL BE HAD.] That at the next general election in the year one thousand, eight hundred and ninety-two (1892) the qualified electors of Pembina county, of the State of North Dakota, are hereby empowered to vote upon the location of the Blind Asylum in said county, by ballot, and for this purpose each voter may designate on his ballot the place of his choice for the location of the said Blind Asylum in said county of Pembina, in manner following, to-wit: "For location of the Blind Asylum," the name of the place to be either written or printed in the foregoing blank.

§ 4. CANVASS OF THE VOTE.] The said election for the location of Blind Asylum in Pembina county shall be governed by the law relating to general elections, and the returns of said vote for location of said Blind Asylum shall be made by the officers appointed under and pursuant to said general election law, in the various voting precincts of said Pembina county, to the auditor of said Pembina county, as therein provided, who shall proceed, with other officers as therein directed, to ascertain the result of said vote, and shall truly certify the same to the county commissioners of said county and to the Secretary of State of North Dakota and to the Governor of the State of North Dakota.

§ 5. IN CASE NO TOWN HAS MAJORITY OF ALL VOTES CAST.] If it shall appear from said certificate of election, as provided for in Section 4 of this act, that no place has received a majority of all the votes cast for or against said particular place, then it is hereby made the duty of the auditor of Pembina county, at the next following general election to be held in Pembina county, to call an election of the qualified voters of said Pembina county to again vote upon the location of said Blind Asylum, naming in said call the places to be voted for which shall be the two places which received the highest number of votes as prescribed in the election held under Section 3 of this act; said election to be held in every regard as the preceding election was held, and the returns to be made and certified the same as hereinbefore provided.

§ 6. WHEN LOCATION DEEMED PERMANENT.] Whenever it shall appear to the satisfaction of the Governor of the State of North Dakota that a majority of all the votes cast by the electors of Pembina county have been for one particular location in said Pembina county he shall, by proclamation, declare that fact, and from and after the date of such said proclamation the location of said Asylum shall be deemed permanent at the place named therein until otherwise changed by law.

§ 7. REPEAL.] All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 4, 1891.

BONDS.

CHAPTER 37.

[H. B. No. 44.]

AUTHORIZING ISSUE OF STATE BONDS.

AN ACT Authorizing and Empowering the Governor, State Auditor and State Treasurer to Issue Bonds to Pay the State of North Dakota's Share of the Indebtedness of the Territory of Dakota, as Determined by the Joint Commission of the States of North Dakota and South Dakota, Appointed Pursuant to Law.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. BOND ISSUE AUTHORIZED.] That the Governor, State Auditor and State Treasurer are hereby authorized and empowered to prepare for issue negotiable bonds of the State of North Dakota to the amount of \$106,000 to pay the State of North Dakota's share of the indebtedness of the Territory of Dakota, as determined by the joint commission of the States of North and South Dakota, appointed pursuant to law. Such bonds shall be made payable to the purchaser or bearer, and payable in thirty years from date of issue, and shall bear interest at a rate not to exceed $4\frac{1}{2}$ per cent. per annum, interest payable semi-annually on the first day of January and July each year, with coupons attached for each interest payment, said interest coupons to be made payable anywhere in the United States; said bonds shall be executed under the great seal of the State by the Governor and Treasurer, and shall be attested by the Secretary of State, and shall be negotiated by the Treasurer.

§ 2. PROPOSALS.] The State Treasurer shall receive sealed proposals for the purchase of said bonds, and he shall give public notice for four successive weeks in two or more newspapers of general circulation, one of which shall be published in the city of New York, giving date of such sale; and the said bonds shall be sold to the highest bidder for cash, at not less than their par value.

§ 3. TAX LEVY FOR INTEREST.] The State Board of Equalization at the time other taxes are levied, shall levy a sufficient tax annually to pay the interest on said bonds, as the same shall become due, which tax shall be collected in the same manner that other State taxes are collected. Also, seven years before the maturity of said bonds, said board shall provide a sinking fund sufficient to retire

and pay said bonds at their maturity, and for such purpose shall annually levy a tax sufficient to provide such funds. No tax or fund provided for the payment of such bonds or the interest thereon shall be used for any other purpose.

§ 4. PAY AND COLLECTION OF COUPONS.] When the interest coupons attached to such bonds become due, and whenever said bonds mature, it shall be the duty of the State Treasurer to pay the same on presentation, out of any funds in the treasury applicable thereto, and to cancel the same when paid.

§ 5. TRANSFER OF RESIDUE OF FUND.] When said bonds are all redeemed and all interest thereon paid, the residue of said fund and all subsequent collections of said tax shall be transferred to the General Revenue Fund of the State.

§ 6. WHEN BONDS OFFERED FOR SALE.] The State Treasurer is hereby authorized and empowered to offer for sale said bonds in such amounts and at such times as the Governor, State Auditor and State Treasurer may deem proper and for the best interests of the State.

§ 7. PROCEEDS, HOW PLACED.] The proceeds of the sale of such bonds shall be placed to the credit of the General Fund of the State, and whenever for any cause there are not sufficient funds to the credit of the Bond Interest Fund to pay the interest accrued on the bonds issued, it shall be the duty of the Treasurer to pay the interest out of any other unappropriated fund belonging to the State, and there is hereby appropriated out of the State General Fund a sum sufficient to pay such interest on said bonds as may become due before the funds and tax herein provided for can be made available, and it shall be the duty of the State Treasurer to pay such interest promptly at the time it falls due.

§ 8. STYLE OF BONDS.] Said bonds to be known and styled, "Bonds funding the territorial indebtedness of the State of North Dakota," which shall be of denominations of not less than \$1,000 each.

§ 9. EMERGENCY.] Whereas, an emergency exists in that the share of North Dakota's territorial indebtedness has been determined pursuant to law, and whereas, the available resources of the State Treasury have been exhausted to pay the same and it is necessary to provide funds to pay the legislative and current expenses of the State, therefore, this act shall take effect and be in force immediately upon its passage and approval.

Approved February 3, 1891.

CHAPTER 38.

[S. B. No. 74.]

REGISTRATION OF STATE BONDS.

AN ACT to Provide for the Registration by the Treasurer of State Bonds Issued or Assumed by the State of North Dakota.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. TREASURER TO REGISTER BONDS.] That the Treasurer of State, upon presentation to him of any bond or bonds issued by, or assumed by, the State of North Dakota, and upon application to him in writing by the owner or owners of such bond or bonds for the registration thereof, shall register such bond or bonds (first detaching and cancelling all unmatured coupons, in case such bonds are coupon bonds) in the name or names of the said owner or owners, in a book which he shall keep for that purpose; and after registration of ownership as aforesaid, duly endorsed by the Treasurer upon the bond or bonds so registered, no transfer of ownership of such bond or bonds shall be valid unless registration of such transfer shall have been made by the State Treasurer as aforesaid; and such bond or bonds shall continue subject to registration and to transfer at the option of the owner or owners.

§ 2. VESTED OWNERSHIP.] The registration of bonds, as provided in Section 1 or this act, shall vest the ownership thereof, both principal and interest, in the parties in whose name the last registration is made; and the State Treasurer shall remit in current exchange on New York City to the party in whose name the last registration is made, the interest on such bonds, as it from time to time becomes due, and the principal thereof at maturity.

§ 3. FEE FOR REGISTRY.] For each registration of ownership or transfer of ownership made as herein provided, the Treasurer shall be entitled to receive a fee of fifty (50) cents for each bond so registered; *Provided*, That all fees so received shall be covered into the General Fund of the State.

Approved March 6, 1891.

CHAPTER 39.

[H. B. No. 172.]

CIVIL TOWNSHIPS TO ISSUE BONDS TO PROCURE SEED.

AN ACT Authorizing Civil Townships to Issue Bonds to Procure Seed for Needy Farmers Resident Therein.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. HOW BONDS MAY BE ISSUED—PETITION REQUISITE.] Whenever a petition, signed by three-fifths of the resident freeholders in any township in this State, shall be filed with the clerk of said township, praying the board of supervisors of said township to issue the bonds of said township for the purpose of buying seed grain for the needy farmers residing therein, it shall be the duty of said clerk immediately thereupon to call a meeting of the board of supervisors for said township, to be held not later than four days from the date of filing said petition, and it is hereby made the duty of said board of township supervisors, upon ascertaining that said petition contains the requisite number of names as shown by the total number of votes polled at the last annual election for township officers, to forthwith issue the bonds of said township in the denomination or denominations which the may deem best, but which shall not aggregate more than a given amount, to be stated in the aforesaid petition.

§ 2. BONDS HOW LEGALIZED, INTEREST ON SAME.] The acts of a majority of any township board of supervisors shall be sufficient to legalize the issuing of township bonds under this act. All bonds issued under the provisions of this act shall draw interest at the rate of 7 per cent. per annum, payable semi-annually, at such place and times as shall be determined by the board of supervisors; *Provided*, That said bonds shall be payable in not less than five nor more than ten years.

§ 3. HOW BONDS SIGNED AND VERIFIED.] Said bonds shall be signed by the chairman of the board of township supervisors, and attested by the clerk of said township; said bonds shall also be verified by a certificate, signed by both chairman and clerk, that the bonds are issued in accordance with the provisions of this act, and are within the debt limits.

§ 4. PROPOSALS FOR BONDS.] It shall be the duty of said township board of supervisors to receive sealed proposals for the purchase of said bonds, after having given ten days' notice by advertising, in any manner they may deem best. Said bonds shall be sold to the highest bidder for cash, and shall not be sold for less than their par value; *Provided*, That the board of township

supervisors shall have a right to reject all bids and postpone the sale of said bonds for a time not to exceed ten days.

§ 5. PROCEEDS HOW PAID.] The proceeds arising from the sale of said bonds shall be paid by the purchaser thereof to the township treasurer of said township, or to his authorized agent, upon the delivery of said bonds; and such proceeds shall be paid out only on the order of the township board of supervisors. The treasurer of any township shall be required to give additional bonds, with sureties to be approved by the board of township supervisors, before the proceeds from the sale of said bonds are turned over to him.

§ 6. SUPERVISORS MUST LEVY TAX.] Said board of township supervisors shall levy a tax, at the time and in the manner that other taxes are levied, sufficient to pay the interest, as it falls due, on the said bonds, and also a sinking fund tax sufficient to take up the bonds when they become due. Neither the interest fund nor the sinking fund shall be used for any other purpose than that for which it is levied; *Provided, however,* That the sinking fund may be deposited or loaned in any safe place, for the purpose of earning interest, which shall be credited to the sinking fund; and *Provided, further,* That any balances remaining in said fund, after the payment of said bonds, shall be transferred to any other township fund or funds designated by the board of township supervisors.

§ 7. COMPENSATION OF TREASURER AND HIS DUTIES.] The township treasurer shall receive 1 per cent for handling the proceeds of the sale of said bonds. Upon the payment of any of said bonds, or the coupons thereto attached, it shall be the duty of the township treasurer to cancel the same by writing the word "paid" across the face of the same and the date of payment. The township treasurer shall also keep a record of these bonds, showing date, maturity, rate of interest, to whom and when payable, and when any interest coupon is paid, it shall be credited on said record, with date of payment.

§ 8. PROCEEDS, HOW USED.] The proceeds arising from the sale of said bonds shall be applied exclusively, by the board of township supervisors, in the purchase of seed grain for needy farmers residing in said township, who are unable to procure seed elsewhere; *Provided,* That not more than one hundred and fifty bushels of wheat or its equivalent in other seed grain shall be furnished to any one person.

§ 9. TOWNSHIP CLERK TO FILE SEED LIENS.] It shall be the duty of the township clerk to file seed liens in the name of said township, against all persons securing seed from the township under the provisions of this act, within the time provided by law for the filing of seed liens by private parties, and said clerk shall be allowed a fee of twenty-five (25) cents for making and filing each of said liens, which fee shall be paid by the township, in cash or its equivalent.

§ 10. TREASURER TO COLLECT LIENS—DEPUTIES MAY BE APPOINTED.] The township treasurer is hereby authorized to collect all amounts due on the seed liens filed pursuant to the provisions of this act, and shall receive the same fee therefor as for handling other township funds; *Provided*, That the township treasurer shall have authority to appoint deputies, not to exceed three in number, to assist him, who shall receive the same fee as the treasurer; and *Provided, further*, That the treasurer and his deputies shall be allowed their actual expenses incurred in the course of the collection of said liens, in addition to the fee already allowed by law. Said expenses shall be charged to the person against whom the said [seed] lien is filed, but no expenses shall be made by the treasurer or his deputies against any one who shall pay the seed lien filed against him on or before October 1st of the year for which said seed liens is filed.

§ 11. SEED GRAIN FUND—HOW IT MAY BE LOANED.] All funds collected for seed grain furnished pursuant to the provisions of this act, shall constitute the seed grain fund, and shall not be used for any other purpose than to purchase seed for needy farmers in said township, which shall be applied each succeeding year in like manner as the proceeds of the bonds of said township. Said seed grain fund may be deposited or loaned for interest, which shall be credited to said fund. Said funds so deposited or loaned must be paid into the township treasury on or before the 15th day of March of each year, and the balance of said fund remaining in said treasury on May 1st of the same year may be deposited or loaned for interest until March 15th of next year, and so on; *Provided*, That upon presentation of a petition signed by a majority of the resident freeholders, shown as before mentioned in this act, the township supervisors shall transfer the balance on hand in said seed grain fund to any other fund of said township specified in said petition.

§ 12. REPEAL.] All acts or parts of acts in conflict with this act are hereby repealed.

§ 13. EMERGENCY.] Whereas, an emergency exists in that it is necessary to procure seed grain the coming spring under the provisions of this act; therefore, this act shall take effect from and after the day of its passage and approval.

Approved March 4, 1891.

BRANDS AND EARMARKS.

CHAPTER 40.

[S. B. No. 122.]

REGULATING USE OF BRANDS AND EARMARKS.

AN ACT to Regulate the Use of Marks and Brands and Trade Marks.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. CREATING GENERAL OFFICE FOR RECORDING BRANDS.] A general office for recording marks and brands, and trade marks, shall be maintained at the seat of government, and the duties thereof shall be performed by the Secretary of State. The office of the register of deeds of every county, in this State shall be an auxiliary to said office, and the duties thereof shall be performed by the register of deeds.

§ 2. HOW BRANDS MAY BE OBTAINED AND RECORDED.] Whenever any person, firm or corporation, desires the exclusive use of any mark or brand, or trade mark he, they or it shall make application therefor to the Secretary of State direct, or through the register of deeds of the county in which they reside or do business, or in which the stock to be branded or marked are situated, upon a blank to be furnished by said Secretary, and it shall be the duty of said Secretary to record said mark or brand or trade mark, designating the particular mark or brand or trade mark to be used by said applicant, and to define the place and position such mark or brand shall occupy on the animal, consulting always the choice and convenience of the applicant therefor, so far as may be, without conflicting or interfering with any previously recorded mark or brand.

§ 3. SECRETARY OF STATE MUST RECORD BRANDS.] The Secretary of State shall procure and keep a record of all marks and brands and trade marks, showing the names and residence of the person, firm or corporation owning the same, together with a description and *fac simile* of such mark, or brand, or trade mark, and in the case of live stock, the range occupied by said stock, as as near as may be, which record shall be open to inspection of any person interested, and he shall deliver to the owner or owners of said mark or brand or trade mark a certificate thereof, which certificate shall be deemed evidence in law of such ownership, for which he shall demand and receive a fee of one dollar. Said certificate shall also be recorded in the office of the register of deeds

of the county in which said owners reside, or in case of non-resident owners, the county in which the person or persons having said cattle in charge reside, or where said cattle may be situated, and may demand and receive a fee of one dollar.

§ 4. DUTY OF REGISTER OF DEEDS.] The register of deeds may receive and forward to said Secretary of State all applications for recording marks, brands or trade marks, and shall collect therefor the fee for the Secretary of State in addition, which fee shall be forwarded to said Secretary with the application, but such certificate shall not be recorded by the register of deeds until it has been first recorded by the Secretary of State. The register of deeds shall furnish the owner or owners of all brands, marks or trade marks with a certificate showing the record thereof in his office.

§ 5. PENALTY FOR USING LIKE BRANDS.] Any person using a like brand, in the position, or on the place recorded by another, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than one hundred (100) dollars.

§ 6. BRANDS MUST BE VENTED.] It shall be, and it is hereby made the duty, of all persons who sell live stock of any kind to another, to vent their brand on the part of the animal which the purchaser or purchasers may determine; *Provided*, That said vent brand shall be upon the same side of the animal as the original brand, either by inverting the original brand, or by a vent brand prepared for that purpose. Said vent brand shall be not less than one-half the size of the original brand, and shall be of the type of the original brand, and such venting, as above provided, shall be prima facie evidence of the sale or transfer of said stock.

§ 7. WHEN SIMILAR BRANDS MAY BE RECORDED.] The Secretary of State shall refuse to receive for record any brand, that being the same as any previously recorded, shall have added thereto any or either of the following, to-wit: A bar, a circle, a half circle, a quarter circle, a diamond or a half diamond; *Provided, however*, That a similar device, figure, or letter, but placed on a different part of the animal, may be so received and recorded.

§ 8. REGISTERS OF DEEDS TO CERTIFY BRANDS WHEN.] It is hereby made the duty of the register of deeds of any county in this State having any marks, brands, or trade marks recorded in his office, to prepare a duly certified copy of such records, and transmit the same to the Secretary of State, within thirty days after the taking effect of this act, and said register of deeds shall be allowed a fee of twenty-five (25) cents for each brand so certified, which fee shall be allowed by the board of county commissioners of said county.

§ 9. WHO HAVE RIGHT TO RECORDED BRANDS.] All persons who have heretofore recorded any mark, brand or trade mark, in any county of this State, shall have the prior right to the exclusive

use of said marks, brands or trade mark; *Provided*, Where two or more of such marks or brands conflict with each other, the one first recorded shall have priority; *Provided, further*, That all stock brands recorded in the office of the Secretary of State, under the provisions of Chapter 37, of the Laws of 1890, shall be in no wise invalidated by any of the provisions of this act. The provisions herein contained affecting the priority of right to any brand, shall not apply or be in force after the 1st day of December, 1891.

§ 10. HOW TO OBTAIN EXCLUSIVE BRAND.] Any person, firm or corporation desiring to secure within this State the exclusive use of any name, mark, brand, print, designation, or description for any article of manufacture or trade, or for any mill, hotel property, machine shop, or other business, shall deliver or cause to be delivered to the Secretary of State a particular description or *fac simile* of such mark, brand, name, print, designation or description, as he or they may desire to use, and if there be not already a claim filed for the same or a similar mark, brand, name, print, designation or description, he shall immediately record the same in a book to be provided and kept for that purpose, which book shall be at all times subject to public inspection and examination, and after the same shall have been recorded as herein provided, the person, firm or corporation causing the same to be recorded shall have the exclusive right to the use thereof; *Provided*, That nothing herein contained shall be construed to authorize the use of figures, letters or Roman numerals.

§ 11. PENALTY FOR IMITATING BRAND.] Any person, firm or corporation that shall use or cause to be used any brand, mark, name, print, designation or description, the same as or similar to any recorded to any other person or persons for the purpose of deception or profit, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than one hundred (100) dollars nor more than \$1,000.

§ 12. PENALTY FOR USING BRANDS.] Any person, firm or corporation that shall use or cause to be used any second hand sack, box, barrel, can, package or other article on which has been placed any brand, mark, name, print, designation or description, the property of another, for the purpose of deception, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than one hundred (100) dollars nor more than \$1,000.

§ 13. FEE OF SECRETARY OF STATE.] The Secretary of State shall be entitled to a fee of one (1) dollar for each brand, mark, name, print, designation or description so recorded.

§ 14. REPEAL.] All acts and parts of acts in conflict with the provisions of this act, be and the same are hereby repealed.

§ 15. EMERGENCY.] Whereas, an emergency exists, in that the brand law heretofore and now in force is defective, and that many persons cannot have such brands as are necessary recorded

by reason thereof; therefore, this act shall be in full force and effect from and after its passage and approval.

Approved March 9, 1891.

CHAPTER 41.

[S. B. No. 45.]

PREVENTING BRANDING DURING CERTAIN SEASONS OF THE YEAR.

AN ACT Entitled "An Act to Prevent the Branding of Horses, Mules, Asses and Cattle During Certain Seasons of the Year."

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. WHEN UNLAWFUL TO BRAND STOCK.] It shall be unlawful for any person to brand or mark any horses, mules, asses or cattle that are running at large between the 1st day of November of each year and the 1st day of the month of May following; *Provided*, Any owner of stock may brand his own stock on his own premises, at any time, in the presence of two or more responsible citizens. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor, and on conviction before any court of competent jurisdiction shall be punished by a fine of not less than twenty five (25) dollars nor more than one hundred (100) dollars, for each and every animal thus branded, or by imprisonment in the county jail for a term not exceeding thirty days, or may be punished by both such fine and imprisonment, in the discretion of the court.

§ 2. REPEAL.] All acts and parts of acts in conflict with the provisions of this act, be and the same are hereby repealed.

Approved February 25, 1891.

CHAPTER 42.

[S. B. No. 55.]

TO PREVENT ILLEGAL BRANDING OF STOCK.

AN ACT Entitled "An Act to Prevent the Illegal Branding, Killing, Stealing, Maiming or Driving Stock, the Property of Another Person, From Their Accustomed Range, in the State of North Dakota."

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. PENALTY.] If any person or persons shall hereafter mark, brand, kill, steal or sell, or cause to be marked, branded,

killed, stolen or sold, any horse, mule, cow, calf, sheep, swine, or other animal, the property of another person, such person or persons so marking, branding, killing, stealing or selling any such animal, or causing the same to be done, shall be deemed guilty of a felony, and upon conviction thereof before any court of competent jurisdiction may be fined not less than five hundred (500) dollars nor more than \$1,000 or may be imprisoned in the State Penitentiary for a period not less than one year nor more than five years, or by both such fine and imprisonment, at the discretion of the court.

§ 2. PENALTY FOR MAIMING.] That if any person or persons shall cut off either or both ears close to the head of any horse, mule, cow, calf, ox, sheep or swine, he or they shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in any sum not less than twenty-five (25) dollars nor more than one hundred (100) dollars for each and every animal so maimed, or by imprisonment in the county jail for a period not more than thirty days or by both such fine and imprisonment, at the discretion of the court.

§ 3. PENALTY FOR DRIVING STOCK OFF OF RANGE.] That any person or persons who shall drive or cause to be driven any cattle, horses, mules, sheep or swine from their customary range without the permission of the owner or owners thereof shall be deemed guilty of a misdemeanor, and on conviction thereof before any justice of the peace in the State of North Dakota, may be fined in any sum not less than fifty (50) dollars nor more than one thousand [hundred] (100) dollars, or may be imprisoned in the county jail for a period not more than thirty days, or by both such fine and imprisonment, at the discretion of the court.

§ 4. REPEAL.] All acts and parts of acts in conflict with the provisions of this act be, and the same are hereby repealed.

Approved March 9, 1891.

CITIES.

CHAPTER 43.

[H. B. No. 208.]

AMENDING LAW OF 1887 FOR INCORPORATION OF CITIES.

AN ACT to Amend Article 15, of Chapter 73, Laws of 1887, Entitled "An Act to Provide for the Incorporation of Cities."

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Article 15, of Chapter 73, of the Laws of the Seventeenth Session of the Legislative Assembly of

the Territory of Dakota, be amended by adding thereto at the end thereof the following sections:

Sec. 42. ASSESSMENT FOR WATER WORKS.] The city council of any city owning and operating a system of public water works and hydrants for the purpose of supplying its inhabitants with water and with fire protection, for the purpose of equalizing the burden of expense of operating such system, shall have the power to make an annual assessment for each fiscal year, for not to exceed one-half of the expense of operating such system, on the property abutting or bounding upon the streets and avenues of the city in which the mains of said system are laid and operated, and to collect such assessment in the manner provided in this article for the collection of assessments for other local improvements; and to fix, determine and collect penalties for the non-payment of any such special assessments; *Provided*, That nothing herein contained shall be construed as making it obligatory upon the city council to raise any portion of the funds necessary for operating such system by special assessment; and *Provided, further*, That any portion less than one-half of the sum needed for operating said system may at the discretion of the city council be raised by such assessment; and such assessment in all cases shall be exclusive and independent of water rates or rents collected from water consumers.

Sec. 43. ASSESSMENT, HOW LEVIED.] Whenever a city council shall deem it necessary to levy the assessment authorized by this act, it shall pass a resolution to that effect, and shall estimate the cost of operating the water system for the next fiscal year, and shall specify in said resolution the portion of the sum so estimated for which a special assessment is to be levied under this act.

Sec. 44. BENEFITS, HOW DETERMINED.] The city auditor, the city treasurer, and the city assessor shall constitute a board to calculate the amount of the sum so determined upon by the city council, to be assessed on each lot or parcel of ground abutting or bounding upon the streets or avenues of the city in which the mains of the water system are laid and operated, which assessment shall be made in proportion to the benefits of such water system and fire protection to the respective lots or parcels of ground situate as aforesaid, and said estimate shall be filed with the city auditor, and shall be presented to the city council for their approval at the first meeting held thereafter, and the city auditor shall cause notice of the time and place when and where the city council will meet to approve the same, to be published in the official newspaper of the city for at least ten days prior to the meeting of the city council to approve the same, at which meeting any person complaining of such assessment shall be heard and any errors in the same corrected. After said assessment shall be approved by the city council, it shall be proceeded with by the proper officers in the same manner as is provided in this article for assessments for other local improvements.

Approved March 11, 1891.

COAL.

CHAPTER 44.

[H. B. No. 25.]

USE OF LIGNITE REQUIRED IN STATE INSTITUTIONS.

AN ACT to Encourage the Development of the Coal Mines of the State and to Determine the Kind of Coal That Shall be Used as Fuel in the Various State Institutions.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. STATE INSTITUTIONS TO USE NATIVE COAL.] The various State Institutions of this State shall use for fuel native or lignite coal, and it shall be unlawful for any officers to purchase for use in said institutions any coal other than that taken from mines within the boundaries of this State; *Provided*, That this section shall not be construed as prohibiting the use of wood for fuel at such institutions.

§ 2. PENALTY.] A violation of the provisions of this act by any officer of this State shall work a forfeiture of his office.

Approved March 6, 1891.

CONSTITUTIONAL AMENDMENTS.

CHAPTER 45.

[S. B. No. 50.]

INCREASING THE STATE DEBT LIMIT.

AN ACT to Increase the State Debt Limit; An Act Proposing an Amendment to Section 182 of Article 12, of the Constitution of the State of North Dakota.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. PROPOSED CONSTITUTIONAL AMENDMENT.] The following proposition to amend the Constitution of the State of North Da-

kota is hereby submitted to the Second Session of the Legislative Assembly of the State of North Dakota, to be by them submitted to the qualified electors of the State for approval or rejection namely: 'The Constitution of the State of North Dakota is hereby amended by striking out the word "two" in line three after the word "of" and the words "hundred thousand dollars" in line 4 of Section 182 of Article 12 of the Constitution, and inserting in lieu thereof the following: "Five (5) mills on the dollar of the assessed valuation of all taxable property in the State to be ascertained by the last assessment made for the State and county purposes."

Approved March 20, 1890.

CHAPTER 46.

[H. B. No. 87.]

PUBLICATION OF AMENDMENTS TO CONSTITUTION.

AN ACT to Provide for the Publication of Future Amendments to the Constitution, and Fixing the Rate and Method of Compensation Therefor.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENTS TO BE PUBLISHED.] That whenever any amendment or amendments to the Constitution of the State of North Dakota are referred to the Legislative Assembly to be chosen at the next general election after the session in which said amendment is first proposed, said amendment or amendments shall be published for three months previous to the time of making such choice, in one weekly paper in each county in which a weekly paper is published, once in the first month, once in the second month and four times in the third month.

§ 2. PAPERS, HOW SELECTED.] The paper in which said publication is made shall be designated by the Secretary of State. Said Secretary of State, in making such designation, shall as far as possible endeavor to select the paper having the largest circulation.

§ 3. FEE.] The compensation of said papers for said publication shall be at the rate of twenty-five (25) cents per square of twelve lines of solid brevier type, or its equivalent, to each newspaper designated to publish such amendment or amendments.

§ 4. ACCOUNTS, HOW AUDITED.] It is hereby made the duty of the State Auditor, upon receipt of an account of the expenditure required by the provisions of this act, duly certified as correct by

the Secretary of State, to draw his warrant on the State Treasurer for the amount due each of said papers, as shown by said account.

Approved February 28, 1891.

CHAPTER 47.

PROPOSED AMENDMENT TO PROHIBIT LOTTERIES.

Be it Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring, That the following amendment to the Constitution of the State of North Dakota, providing that the Legislative Assembly shall have no power to authorize lotteries or gift enterprises for any purpose and shall pass laws to prohibit the sale of lottery or gift enterprise tickets shall be referred to the Legislative Assembly to be chosen at the next general election, after the passage of this resolution, as provided in Article 15 of the Constitution of the State of North Dakota.

AMENDMENT.

The Legislative Assembly shall have no power to authorize lotteries or gift enterprises for any purpose and shall pass laws to prohibit the sale of lottery or gift enterprise tickets.

Filed in the office of the Secretary of State, March 18, 1891.

CORPORATIONS.

CHAPTER 48.

[S. B. No. 183.]

AMENDING CIVIL CODE IN RELATION TO INCORPORATION OF CERTAIN INSTITUTIONS.

AN ACT to Amend Section 407, Civil Code 1877, and Section 538, Civil Code of 1877.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 407 of the Civil Code of 1877 be and the same is hereby amended so as to read as follows:

Sec. 407. NUMBER AND POWER OF DIRECTORS.] The corporate power, business and property of all corporations found under this chapter must be exercised, conducted and controlled by a board of

not less than three nor more than eleven directors, to be elected from among the holders of stock; or where there is no capital stock, then from the members of such corporation. Directors of corporations for profit must be holders of stock therein in an amount to be fixed by the by-laws of the corporation. Directors of all other corporations must be members thereof, [and] unless a quorum is present and acting, no business performed or act done is valid as against the corporation. Whenever a vacancy occurs in the office of director, unless the by-laws of the corporation otherwise provide, such vacancy must be filled by an appointee of the board; *Provided*, That the trustees or directors of any private corporation created for religious, educational or benevolent purposes may be elected at such times and in such manner and their qualifications be such as may be provided by the articles of incorporation or by-laws of such corporation.

§ 2. AMENDMENT.] That Section 538 of the Civil Code of 1877 be and the same is hereby amended so as to read as follows:

Sec. 538. TRUSTEES, NUMBER.] Persons associated together for religious, educational, benevolent, charitable or scientific purposes may elect trustees or directors, not less than three nor more than twenty-one, and may incorporate themselves as generally provided for in this chapter.

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

§ 4. EMERGENCY.] Whereas an emergency exists, in that there is no adequate or proper law for the incorporation of educational or charitable institutions in connection with or under the supervision of other religious, educational or charitable organizations, and it is essential that a law for such purpose be enacted as soon as practicable, and long before July 1, 1891; therefore an emergency exists, and this act shall take effect and be in force from and after its passage and approval.

Approved March 9, 1891.

CHAPTER 49.

[S. B. No. 117.]

AMENDING ACT OF 1890, RELATING TO THE INCORPORATION OF CERTAIN BENEVOLENT INSTITUTIONS.

AN ACT to Amend Section 8 of Chapter 72 of the General Laws of 1890, the Same Being "An Act Entitled An Act to Provide for the Incorporation of Certain Classes of Benevolent and Charitable Institutions."

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 8 of Chapter 72 of the General Laws of 1890, be amended so as to read as follows:

Sec. 8. ARTICLES, WHAT MAY CONTAIN—DISSOLUTION.] It may be provided in the articles of incorporation of any corporation formed under this act, that such corporation and the members thereof shall be subject to the jurisdiction of some grand, supreme or sovereign lodge or other body or bodies, of the association, or fraternity to which the lodge or other organization forming such corporation may belong, and that in case such supreme, grand or sovereign lodge, or other superior body or bodies shall at any time revoke or suspend the charter granted by it to such subordinate lodge or other organization, or whenever by the laws and usages of the organization of which such subordinate body forms a part, the said subordinate body shall become defunct, then the corporate powers of such lodge or other subordinate organization shall cease and determine, except that such corporation as such, shall have power to sell, convey, and dispose of its property, and collect debts due it; and all such property and debts shall be delivered up to the grand, supreme or sovereign lodge or other body or bodies of the association or fraternity to which such subordinate body forming such corporation may belong, or owe allegiance in accordance with the laws and usages of said fraternity or association.

Approved March 9, 1891.

COUNTY BOUNDARIES.

CHAPTER 50.

[H. B. No. 183.]

CHANGE AND INCREASE OF BOUNDARIES OF CERTAIN COUNTIES.

AN ACT to Increase the Revenues of the State by Changing and Increasing the Boundaries of the Counties of Pierce, McHenry, Bottineau, Ward, McLean, Williams, Billings, Stark, Morton and Mercer, and by Repealing the Act Entitled "An Act Pertaining to the Subdivision of the Counties of Walette and Howard, Dakota Territory," Approved March 9, 1883.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. PIERCE COUNTY.] Pierce county shall be comprised of the following townships, to-wit: Townships 157 and 158 north, of ranges 69, 70 and 71, and townships 151, 152, 153, 154, 155, 156, 157 and 158 north, of ranges 72, 73 and 74, all west of the 5th principal meridian.

Sess. Laws 91—9

§ 2. **McHENRY COUNTY.**] McHenry county shall be comprised of townships 151, 152, 153, 154, 155, 156, 157 and 158 north, of range 75, and townships 151, 152, 153, 154, 155, 156, 157, 158 and 159 north, of ranges 76, 77, 78, 79 and 80, all west of the 5th principal meridian.

§ 3. **BOTTINEAU COUNTY.**] Bottineau county shall be comprised of township 159 north, of ranges 74 and 75, and townships 160, 161, 162, 163 north, of ranges 74 to 83, both inclusive, also fractional township 164 north, of ranges 74 to 83, both inclusive, also township 159, ranges 81, 82 and 83, all west of the 5th principal meridian.

§ 4. **WARD COUNTY.**] Ward county shall be bounded as follows: Commencing at the southeast corner of township 151 north, of range 81 west of the 5th principal meridian, thence north and along the 11th guide meridian to the northeast corner of township 158 north, of range 81 west, thence west along the line between townships 158 and 159 north, to the northwest corner of township 158 north, of range 83 west, thence north and along the line between ranges 83 and 84 west, to the north boundary of the State, thence west along the north boundary of the State to the 13th guide meridian (the same being the line between ranges 94 and 95) thence south and along said 13th guide meridian to the center of the main channel of the Missouri river, thence down and along the center of the main channel of the Missouri river to a point of intersection with the line between ranges 91 and 92, thence north to the northwest corner of township 150 north, of range 91, thence east along the line between townships 150 and 151 north, to the 11th guide meridian and place of beginning, all being west of the 5th principal meridian.

§ 5. **MCLEAN COUNTY.**] McLean county shall be bounded as follows, to-wit: Commencing at the northeast corner of township 150 north, of range 74, thence west along the line between townships 150 and 151 north, to the line between ranges 91 and 92, thence south along the line between ranges 91 and 92, to the center of the main channel of the Missouri river, thence down and along the center of the main channel of the Missouri river to the line between townships 142 and 143 north, thence east to the southeast corner of township 143 north, of range 80, thence north to the 11th standard parallel, thence east along the 11th standard parallel to the 10th guide meridian, thence north and along the 10th guide meridian to the northeast corner of township 150 north, of range 74, and the place of beginning, all west of the 5th principal meridian.

§ 6. **WILLIAMS COUNTY.**] Williams county shall be bounded as follows: Commencing at the intersection of the 13th guide meridian (the same being a line between ranges 94 and 95) with the north boundary of the State, thence south and along the 13th guide meridian to the center of the Missouri river, thence westerly and along the main channel of the Missouri river

to the west boundary of the State (the same being the 27th degree of longitude west of Washington, D. C.,) thence north along the west boundary of the State to its intersection with the north boundary of the State (the same being the 49th parallel of north latitude), thence east along the north boundary of the State to the 13th guide meridian and place of beginning, all being west of the 5th principal meridian.

§ 7. BILLINGS COUNTY.] Billings county shall be bounded as follows, viz.: Commencing at the southwest corner of the State, thence east along the south boundary of the State to its intersection with line between ranges 99 and 100, thence north and along the line between ranges 99 and 100, to the center of the main channel of the Missouri river, thence westerly and along the main channel of the Missouri river to the west boundary of the State (the same being the 27th degree of longitude west of Washington, D. C.), thence south and along the west boundary of the State to the southwest corner of the State and place of beginning.

§ 8. STARK COUNTY.] Stark county shall be bounded as follows, viz.: Commencing at the intersection of the line between ranges 99 and 100, with the south boundary of the State, thence north and along the line between ranges 99 and 100 to the center of the main channel of the Missouri river, thence down and along the main channel of the Missouri river to its intersection with the line between ranges 90 and 91, thence south and along the line between ranges 90 and 91 to the south boundary of the State, thence west along the south boundary of the State to the line between ranges 99 and 100 and the place of beginning.

§ 9. MORTON COUNTY.] Morton county shall be bounded as follows, viz.: Commencing at the northwest corner of township 140 north, of range 90, thence south and along the line between ranges 90 and 91 to the south boundary of the State, thence east along the south boundary of the State to the center of the main channel of the Missouri river, thence up and along the main channel of the Missouri river to its intersection with the 10th standard parallel, thence west along the 10th standard parallel to the northwest corner of township 140 north, of range 90, and the place of beginning, all being west of the 5th principal meridian.

§ 10. MERCER COUNTY.] Mercer county shall be bounded as follows, viz.: Commencing at the southwest corner of township 141 north, range 90 west, thence north and along the line between ranges 90 and 91 to the center of the main channel of the Missouri river, thence down and along the main channel of the Missouri river to its intersection with the line between ranges 83 and 84, thence south to the southeast corner of township 144 north, of range 84 west, thence west to the 12th guide meridian, thence south along the 12th guide meridian to the 10th standard parallel, thence west along the 10th standard parallel to the southwest corner of township 141 north, of range 90 west, and the place of beginning, all being west of the 5th principal meridian.

§ 11. WHEN TO TAKE EFFECT—ELECTION MUST BE HAD.] Before Sections 1, 2, 3, 4, 5, 7, 8, 9 and 10 of this act shall take effect, it shall be the duty of the boards of county commissioners of the counties of Pierce, McHenry, Bottineau, Ward, McLean, Billings, Stark, Morton and Mercer to submit to the qualified electors of their respective counties the question of change and increase of their respective county boundaries. Such question shall be submitted by them at the first general election after the taking effect of this act. Each elector shall have written or printed on his ballot the words "For change and increase of county boundaries," or the words "Against change and increase of county boundaries," and the votes on this question shall be returned and canvassed in the same manner as votes for county officers are returned and canvassed. It shall be the duty of the canvassing boards, immediately on the completion of the canvass, to file with the registrar of deeds of their respective county, also with the Secretary of State, a certificate showing the result of said election, and if at said election a majority of the legal voters of any of the counties named in this section, voting at said election shall have voted for a change and increase of the boundaries of their county, then the boundaries of said county shall be from and after the filing of the certificate aforesaid, as in this act described. But if a majority of the legal voters of any of the counties named in this section, voting at said election, shall vote against the change and increase of the boundaries of their county, then the boundaries of said county shall remain as now defined by law, the same as if this act had not been passed.

§ 12. REPEAL.] The act entitled "An Act pertaining to the subdivision of the counties of Waillette and Howard, Dakota Territory," approved March 9, 1883, be and the same is hereby repealed.

Approved March 2, 1891.

COUNTY COURTS.

CHAPTER 51.

[H. B. No. 177.]

JURISDICTION OF COUNTY COURTS AND PROVIDING FOR CLERK HIRE.

AN ACT Defining the Criminal Jurisdiction of County Courts Having Civil and Criminal Jurisdiction, and Providing for the Practice and Procedure Therein, and to Provide Clerk Hire Therefor.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. CONCURRENT JURISDICTION, TO WHAT EXTENT.] That all county courts having increased jurisdiction are hereby vested with and shall have concurrent jurisdiction in all criminal offences and misdemeanor below the grade of felony. They also have power to remit fines, forfeitures and recognizance and to accept and approve the same as provided by law.

§ 2. POWER AND AUTHORITY.] They shall have power and authority to issue all writs necessary to carry into effect their judgments, decrees and orders.

§ 3. CONCURRENT JURISDICTION WITH DISTRICTS COURTS.] They shall have concurrent jurisdiction with district courts in appeals from all final judgments of justice of the peace, police magistrates, police justices or city justices for cities or towns, and the proceedings on such appeals shall be the same as now or may hereafter be provided for appeals from judgments of justice of the peace to the district court.

§ 4. JURISDICTION.] They shall have jurisdiction to grant new trials, affirm, modify, or set aside judgments in actions tried in such court upon bill of exceptions or case made.

§ 5. APPEALS AND WRITS OF ERROR.] Appeals from, and writs of error to the county court shall be allowed to the district court from all judgments orders and decrees of said county court and the proceedings on such appeals shall be the same as now or may hereafter be provided for appeals from judgment of justice of the peace to the district court.

§ 6. SAME AS IN DISTRICT COURT.] The process, pleadings, practice and mode of procedure in the county courts shall be the same as provided for in the district courts of this State by the Code of Civil Procedure, or as may hereafter be provided by law, so far as the same is applicable, and the process, orders, judgments

and decrees of such county court shall have the same forms, force, lien and effect as in the district court, and the clerks of said county courts shall charge and collect like fees in the county court as in the district court; *Provided*, That no preliminary examination shall be necessary before trial in criminal actions in the county court.

§ 7. PROSECUTION OF OFFENSES.] All offenses of which the county courts have jurisdiction shall be prosecuted by information of the states attorney or Attorney General and every information shall set forth the offense with reasonable certainty, substantially as required in an indictment, and may be filed either in term time or vacation and the proceedings thereon shall be the same as near as may be as upon indictment in the district court, except as hereinafter provided.

§ 8. WARRANTS OF ARREST, WHEN MAY ISSUE.] The county court in term time or the judge in vacation may issue warrants of arrest for persons against whom an information has been filed; shall fix the amount of bail to be required of the accused, and the clerk shall indorse the same upon the warrant, except when the warrant is issued in term time, the same may be returnable forthwith when it shall not be necessary to fix the amount of bail until the accused is brought into court.

§ 9. RECEIVE PLEA AND PASS JUDGMENT.] The court may receive the plea of guilty and pass judgments in term time or vacation, or, if the accused will waive a jury, may be tried by the court without a jury in term time, upon notice being first given to the states attorney.

§ 10. CAUSE CERTIFIED TO DISTRICT COURT, WHEN.] In any civil or criminal cause of which this court has jurisdiction, whenever at any time before said cause is called for trial it shall appear to the court by affidavit, or if the court shall so order, upon other testimony, that a fair and impartial trial cannot be had in such court by reason of the bias or prejudice of the judge or otherwise, or that the judge is the agent, attorney, or connected by blood or affinity, to any person interested nearer than the fourth degree, or when the court is interested financially or otherwise in the result of such suit, the court shall thereupon direct said cause and all papers and documents connected therewith to be certified to the district court of the county wherein said county court is held; said transcript shall be delivered to the clerk of the district court, at least ten days before the first day of the next term thereof, and shall be placed upon the trial calendar and stand for trial the same as cases originally commenced in said district court.

§ 11. JURIES, HOW SELECTED.] Juries in all criminal actions, in the county court, shall be selected by the county judge, and summoned in the same manner as is now provided by law for selecting juries in criminal actions before justices of the peace; *Provided*, That each party shall be entitled to the same challen-

ges as is now allowed by law in district court in like criminal cases.

§ 12. CLERK HIRE, HOW DETERMINED.] In all counties having county courts with civil and criminal jurisdiction, with a population of 5,000 or more, there shall be allowed and paid to the judge of such court, as clerk hire, the sum of four hundred (400) dollars per annum, and in counties having a greater population than 15,000 inhabitants, then an additional sum of fifty (50) dollars per annum for each additional 1,000 inhabitants or major fraction thereof, and such other and further sums as may be necessary for the proper transaction of the business of such county court, the sum to be paid in the same manner as the salary of the county judge. The duties of the clerk of the county court shall be the same as the duties of the clerks of the district courts.

§ 13. EMERGENCY.] Whereas, an emergency exists in this, that there is no criminal procedure provided by law for county courts having civil and criminal jurisdiction; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 7, 1891.

COUNTY OFFICERS.

CHAPTER 52.

[H. B. No. 182.]

FIXING SALARIES OF CERTAIN COUNTY OFFICERS.

AN ACT Fixing the Salaries of County Auditor and Register of Deeds, and for the Repeal of Sections 1, 2, 3, 4 and 5, Chapter 50, Laws of 1887, and Sections 14 and 15, Chapter 10, Laws of 1889.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. SALARIES OF COUNTY AUDITORS, HOW DETERMINED.] The salary of the county auditors in the State of North Dakota shall be regulated by the value of the property in their respective counties as fixed by the State Board of Equalization for the preceding year as follows: The county auditor shall be entitled to receive four mills on the first \$100,000 and one mill on the next \$300,000 and one-third of one mill on all sums in excess of said first named amounts and not exceeding \$2,000,000 and one-fifth of one mill on all sums exceeding \$2,000,000; *Provided*, That no county auditor shall receive for his personal services an amount to exceed

\$2,000 in any one year; *Provided, further*, That such officer shall not be required to account for fees for certifying to deeds; *Provided, further*, That all fees received by said officer in excess of the above provisions of this act shall be paid into the salary fund of the county at the end of each month.

§ 2. ALLOWANCE FOR DEPUTIES.] If in the judgment of the board of county commissioners of any county it shall be deemed necessary for the prompt and accurate dispatch of the business of auditors office, that clerks or deputies be employed therein, they shall authorize the same, and the allowance for such clerk hire shall be paid in the same manner as all other similar claims against the county, and in no case shall the auditor be allowed such clerk hire unless such services have been actually rendered.

§ 3. SALARY OF REGISTER OF DEEDS, HOW DETERMINED.] The register of deeds shall be entitled to received a salary not to exceed eight hundred (800) dollars in counties where the assessed valuation does not exceed \$1,000,000 nor more than \$1,000 in counties where the assessed valuation does not exceed \$1,500,000, nor more than \$1,200, in counties where the assessed valuation does not exceed \$2,000,000, nor more than \$1,400 in counties where the assessed valuation does not exceed \$2,500,000, nor more than \$1,600 in counties where the assessed valuation does not exceed \$3,000,000; *Provided*, That no register of deeds shall receive for his personal services an amount to exceed \$2,000 in any one year as provided in this act, to be paid monthly from the special salary fund, on the warrant of the county auditor; *Provided*, That the said officer may retain for his own use and account all fees for making and certifying to abstracts.

§ 4. REGISTER TO KEEP FEE BOOK—MONTHLY REPORTS TO AUDITOR.] Each register of deeds shall keep a book to be provided by the county and which shall be a part of the public records of his office, in which shall be entered each item of fees for services rendered, and shall within three days after the close of each calendar month and also at the end of his term of office, file with the county auditor a statement under oath showing the fees which he has received as such officer since the date of his last report, and also within three days deposit with the county treasurer the total sum of such fees, which sum so deposited shall be placed to the credit of the special salary fund. Any register of deeds who shall neglect or omit to charge or collect the fees allowed by law for services rendered, or shall fail or neglect to keep a record of the same, or to make a correct statement thereof to the county auditor, with the intent to evade the provisions of this act shall be deemed guilty of a misdemeanor.

§ 5. IN CASE OF DEFICIENCY IN SALARY.] In case the fees paid into the county treasury by the register of deeds shall not equal his salary as fixed herein, then and in that case such officer shall only be entitled to receive a sum equal to the fees paid into the treasury; and *Provided, further*, That in case there may be a

deficiency in the salary of such officer for any month or fractional month, the deficiency shall be made up from any excessive fees that may be paid into the county treasury by such officer for services rendered during the calendar year in which such deficiency occurred.

§ 6. DEPUTY REGISTER OF DEEDS.] If in the judgment of the board of county commissioners of any county in the State it shall be deemed necessary for the prompt and accurate dispatch of business in the office of register of deeds that deputies or clerks be employed therein, they shall, by resolution fix the number of clerks to be employed and the compensation which they shall receive, which compensation shall be paid monthly from the special salary fund by warrant; *Provided*, That the officers in whose office such deputies or clerks are to be employed shall have the sole power of appointing the same and removing them at pleasure; *Provided, further*, That the total amount paid to the register of deeds for salary and clerk hire shall not exceed the amount of fees by such officer collected and in no case exceed the sum of \$5,000; *Provided, further*, That any officer who shall receive and appropriate to his own use and benefit any part of the salary allowed any clerk employed under the provisions of this act shall be deemed guilty of a misdemeanor. The provisions of this act shall not be construed to reduce the salary of any officer already elected, during the term for which said officer was elected.

§ 7. REPEAL.] Sections 1, 2, 3, 4 and 5 of Chapter 50, Laws of 1887, and Sections 14 and 15, Chapter 10, Laws of 1887 are hereby repealed.

Approved March 7, 1891.

CHAPTER 53.

[H. B. No. 11.]

REGULATING SALARIES OF COUNTY TREASURERS.

AN ACT to Regulate the Salaries of County Treasurers, and to Provide for the Payment of the Same.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. SALARY, HOW DETERMINED.] The county treasurer of each county in the State shall be allowed, at the time of his settlement, all sums paid by him for printing such advertisements as he is required to have done, at the rates prescribed by law; and all the sums paid by him for blank books and stationery necessarily used in his office, and shall receive for his services such sums as may be allowed by law for the collection and paying over all

moneys collected or received by him for the leasing, sale or interest on school or other State lands; and on all other public moneys by him collected or received as such county treasurer, for each year's services, as follows: Four and one-half ($4\frac{1}{2}$) cents on each dollar for the first \$10,000; three (3) cents on each dollar on the second \$20,000; and two (2) cents on each dollar on all sums over \$30,000 and less than \$60,000; and one (1) cent on each dollar on all sums over \$60,000; to be paid on the warrant of the county auditor out of the salary fund, and whenever the salary fund shall be exhausted, the auditor shall draw his warrant on the revenue fund for the deficiency; *Provided*, That no compensation shall be allowed the treasurer for any moneys received from his predecessor in office or his legal representatives, or on any moneys received from the current school funds of the State arising from the lease or sale of school lands; *Provided*, That no treasurer shall receive more than \$1,200 for his personal services in any one year, in counties where the valuation of taxable property is less than \$2,000,000, nor more than \$1,500 in counties where the valuation of taxable property exceeds \$2,000,000, and does not exceed \$4,000,000; nor more than \$2,000 in counties where the valuation of taxable property exceeds \$4,000,000 and does not exceed \$6,000,000; nor more than \$2,500 in counties where the valuation of taxable property exceeds \$6,000,000 and does not exceed \$9,000,000; nor more than \$3,000 in counties where the valuation of taxable property exceeds \$9,000,000 and does not exceed \$12,000,000; nor more than \$3,500 in counties where the valuation of taxable property exceeds \$12,000,000; and all moneys received as fees for certifying to abstracts in excess of the amount provided for in this act, shall be paid by the county treasurer at the end of each year into the revenue fund of the county; *Provided, further*, That whenever the salary of the county treasurer is limited to a fixed sum by the second proviso of this section, said fixed sum shall be paid in the manner provided above, at the end of each month, in twelve equal installments, and no treasurer receiving pay for his services under said second proviso, whose salary can not be certainly and exactly fixed at the beginning of his official year, shall receive more than one-twelfth of his annual salary at the end of each month, as carefully estimated and recorded by the board of county commissioners at their January meeting of each year; and the balance of the year's pay found to be legally due the treasurer shall be paid to him on the computation of said board of commissioners at their next January meeting.

§ 2. DEPUTIES, WHEN MAY BE HAD.] If in the judgment of the board of county commissioners of any county it shall be deemed necessary for the prompt and accurate dispatch of business in the office of the county treasurer, that a deputy or clerks be employed therein, they shall by resolution fix the number of clerks to be employed, and the length of time such deputy or clerks shall be employed, and the compensation which they shall receive, which

compensation shall be paid monthly, in the same manner as the salary of the county treasurer is paid; *Provided*, That the officer in whose office such deputy or clerks are to be employed shall have the sole power of appointing the same and removing them at pleasure; *Provided, further*, That any treasurer who shall receive and appropriate to his own use and benefit any part of the salary allowed any clerk under the provisions of this act, shall be deemed guilty of a misdemeanor.

§ 3. REPEAL.] All act and parts of acts inconsistent, and conflicting with this act, are hereby repealed.

§ 4. EMERGENCY.] Whereas an emergency exists in that there is no law fixing the amount of salary to be paid to county treasurers, or providing for the payment of the same, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 6, 1891.

COUNTY WARRANTS.

CHAPTER 54.

[S. B. No. 88.]

PROVIDING FOR REGISTRATION.

AN ACT Relating to Registering of County Warrants and Duty of the County Treasurer Relating Thereto.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. WARRANTS, HOW REGISTERED.] It shall be the duty of the county treasurer whenever the holder of any county warrant presents the same for registration to enter such warrant in the warrant register for payment in the order of presentation and upon every warrant so registered he shall endorse "registered for payment" with the date of such registration and shall sign such indorsement as treasurer. The treasurer shall not be entitled to charge either for himself or for the county any fee or compensation for such registration, such registration being a part of his official duties.

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

Approved March 6, 1891.

CRUELTY TO ANIMALS.

CHAPTER 55.

[H. B. No. 130.]

AMENDING PENAL CODE IN RELATION TO CRUELTY TO ANIMALS.

AN ACT Amending Sections 695 and 697 of the Penal Code, Being Sections 6886 and 6888, Compiled Laws, and for the Further Prevention of Cruelty to Animals.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 695 of the Penal Code, the same being Section 6886 of the Compiled Laws, be amended to read as follows:

Sec. 6886. ABUSING DOMESTIC ANIMALS.] Every person who shall negligently or willfully overdrive, overload, drive when overloaded, overwork, torture, torment, deprive of necessary food and water, or cruelly beat any animal, and any person who causes or procures an animal to be so overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, or deprived of necessary food and water or cruelly beaten, and any person who shall work any animal, or cause the same to be worked when unfit for work, and any person who shall unnecessarily expose any animal to heat or cold, or leave the same hitched and uncovered in cold weather or storm, or in the night time, is guilty of a misdemeanor. Any officer finding any animal maltreated, abused or unsheltered in any of the manners hereinbefore specified, shall cause the same to be released and properly cared for, and the charges therefor shall be a lien upon such animal to be collected as in case of pledge.

§ 2. AMENDMENT.] That Section 697 of the Penal Code, the same being Section 6888 of the Compiled Laws, is hereby amended to read as follows:

Sec. 6888. KEEPING HOUSES OR PITS FOR FIGHTING ANIMALS.] Whoever owns, possesses, keeps or trains a bird, dog or other animal, with intent that such bird, dog or other animal, shall be engaged in an exhibition of fighting, or whoever keeps any house, pit or other place to be used in permitting any fight between birds, dogs or other animals, or whoever establishes, promotes, or encourages an exhibition of the fighting of birds, dogs, or other animals is guilty of a misdemeanor.

§ 3. WHO MAY MAKE ARREST.] It is hereby made the duty of any sheriff, deputy sheriff, constable, marshal, or police officer within this State, upon the request of any citizen, without a warrant, to arrest any person or persons found violating any of the provisions of Sections 6885, 6886, 6887, or 6888 of the Compiled Laws, and any officer, hereinbefore mentioned, failing to perform such duty is guilty of a misdemeanor.

Approved March 11, 1891.

EDUCATION.

CHAPTER 56.

[S. B. No. 125.]

AMENDING THE GENERAL SCHOOL LAW OF 1890.

AN ACT to Amend Sections 3, 4, 7, 8, 22, 24, 32, 37, 40, 55, 66, 67, 68, 74, 75, 79, 81, 83, 86, 87, 101, 110, 121, 122, 135, 136, 137, 140, 143, 144, 148, 167, 169 and 192, of Chapter 62, Laws of 1890, Entitled "An Act to Provide for a Uniform System of Free Public Schools Throughout the State and to Prescribe Penalties for Violation of the Provisions Thereof."

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 3 of Chapter 62, Laws of 1890, entitled "An Act to provide for a uniform system of free public schools throughout the State and to prescribe penalties for violation of the provisions thereof," be amended to read as follows:

Sec. 3. SUPERVISION.] He shall have the general supervision of the public schools of the State, and shall be *ex-officio* member of the Board of University and School Lands and of the Normal School Boards of the State.

§ 2. AMENDMENT.] That Section 4 be amended to read as follows:

Sec. 4. SCHOOL SUPPLIES.] He shall prepare, cause to be printed and furnish to the proper officers or persons all school registers, reports, statements, notices and returns needed or required to be used in the schools or by the school officers in the State. He shall prepare and furnish to school officers, through the county superintendents, lists of publications approved by him as suitable for district libraries; such lists shall contain also the lowest price at which each such publication can be purchased and

the terms and other valuable information relative to the purchase of district libraries.

§ 3. AMENDMENT.] That Section 7 be amended to read as follows:

Sec. 7. RULES FOR TEACHERS' INSTITUTES.] He shall prescribe rules and regulations for the holding of teachers' institutes, and after counseling and advising with county superintendents, shall appoint conductors therefor. He shall prescribe the course of instruction for teachers' institutes and the course of reading for the teachers' reading circles in the State.

§ 4. AMENDMENT.] That Section 8 be amended to read as follows:

Sec. 8. COUNSEL WITH COUNTY SUPERINTENDENTS.] He shall counsel with and advise county superintendents upon all matters involving the welfare of schools; he shall, when requested, give them written answers to all questions concerning the school law. He shall decide all appeals from the decision of the county superintendents, and may for such decisions require affidavits, verified statements or sworn testimony as to the facts in issue. He shall prescribe and cause to be enforced rules of practice and regulations pertaining to the hearing and determining of appeals, and necessary for carrying into effect the school laws of the State.

§ 5. AMENDMENT.] That Section 22 be amended to read as follows:

Sec. 22. DUTIES IN RELATION TO TEACHERS' INSTITUTES—DUTIES OF TEACHERS.] He shall carry into effect all instructions of the State Superintendent, given within his authority. He shall distribute to the proper officers, and to teachers all blanks furnished him by the State Superintendent, and needed by such officers and teachers. Acting under the instructions of the State Superintendent, he shall convene the teachers of his county at least one Saturday in each month during which the public schools may be in progress, or if the distance is too great, he may convene the teachers of two or more districts in each of the several portions of his county, in county or district institutes or teachers' circles for normal instruction and the study of methods of teaching, organizing, classifying and governing schools, and for such other professional instruction as may be set forth in the course of reading prescribed by the State Superintendent for the State Teachers' Reading Circle. Each teacher shall attend the full session of such institute or circle contemplated herein, and participate in the duties and exercises thereof, or forfeit one day's wages from each day's absence therefrom, unless such absence is occasioned by sickness of teacher or others to whom his or her attention is due; but when on account of distance or otherwise it would impose a hardship upon any teacher to attend or would cause such teacher to neglect his or her school, the county superintendent may excuse such teacher from such attendance.

§ 6. AMENDMENT.] That Section 24 be amended to read as follows:

Sec. 24. MEETING WITH SCHOOL OFFICERS—TO FURNISH MAPS, ETC.] The county superintendent may arrange for meeting with school officers at designated times and places, due notice of which has been given, for the purpose of inspecting the district records and instructing in the manner of keeping the same, and of preparing the reports of district officers. He shall visit the officers of the several school districts as often as may be necessary to secure the correct keeping of the records. He shall, on or before the 1st day of April in each year, prepare and furnish to the several assessors of the county a correct sectional map of their respective district, showing the boundaries and names or numbers of all school districts therein.

§ 7. AMENDMENT.] That Section 32 be amended to read as follows:

Sec. 32. OFFICE,—BOOKS, STATIONERY, POSTAGE, ETC.] The county superintendent may provide for himself a suitable office for the transaction of official business, when not provided therewith by the county commissioners, and said commissioners shall audit and pay his reasonable accounts for the use and furniture of said office. They shall also furnish him with all necessary books, stationery and postage; *Provided*, That not more than one hundred and twenty-five (125) dollars a year shall be paid by any county for office rent, books, stationery, postage and furniture; *Provided, further*, That when an office room is furnished by the county he shall not be allowed to exceed fifty (50) dollars a year for stationery and postage.

§ 8. AMENDMENT.] That Section 37 be amended to read as follows:

Sec. 37. WHAT TERRITORY MAY BE ORGANIZED INTO DISTRICT SCHOOL CORPORATIONS.] The county commissioners of every county not organized for school purposes under the district school system, at the taking effect of this act, shall organize into a distinct school corporation any territory not, at the taking effect of this act, already organized into a civil township or a school township, upon being petitioned so to do by one-third of the residents of such territory having the care and custody of any child of school age; *Provided*, Such territory shall consist of not less than one congressional township, that it shall have at least \$8,000 of taxable property, and that at least ten children of school age reside therein. The county commissioners of every such county, with the advice and counsel of the county superintendent, may re-arrange the boundaries of any school corporation whose territory is not included within a civil township, when petitioned so to do by a majority of the voters residing within each such school corporation whose boundaries will be affected thereby, subject to the same restrictions and conditions as to extent of territory, value of taxable property and number of resident children of school

age as in the organization of a school corporation from territory not included in a civil township. In the formation of school corporations and the re-arrangement of their boundaries, as provided for in this section, the boundary lines of congressional townships shall be followed as far as possible as school corporation lines.

§ 9. AMENDMENT.] That Section 40 be amended to read as follows:

Sec. 40. ANNEXATION OF SCHOOL CORPORATIONS.] In any county not organized for school purposes under the district system at the taking effect of this act, if a town or village not organized into a special school district be divided by a civil township line, or if such town or village be divided by any county line, the county commissioners of such county or the county commissioners of such adjacent counties acting in joint session, as the case may be, may, when petitioned so to do by a majority of the voters of each part of said town or village, annex one part of said town or village to the adjacent school corporation, which includes the other part of said town or village and the part so annexed shall constitute a part of such adjacent corporation.

§ 10. AMENDMENT.] That Section 55 be amended to read as follows:

Sec. 55. VOTES, HOW CANVASSED.] Such annual election shall be conducted and the vote canvassed as provided by law for general elections, except as otherwise provided in this act. Immediately after the polls are closed, the judges shall proceed to count and canvass the votes cast for each person voted for at such election for any office, and the person receiving the highest number of votes for the office of director or treasurer shall be declared elected. If the election results in a tie for any such office, the district clerk shall immediately notify, in writing, the parties having received such tie vote, and a time shall be agreed upon by the parties, within three days after election, at which the election shall be decided in the manner that may be agreed upon by the parties, in the presence of the judges and clerks of election, and a record of the proceedings shall be made in the records of the district clerk. The return of the number of votes cast for each person for county superintendent of schools shall be signed by such judges and clerks of election, sealed in an envelope and forwarded to the county auditor within five days after such election.

§ 11. AMENDMENT.] That Section 66 be amended to read as follows:

Sec. 66. SCHOOL FUNDS, HOW KEPT.] The school treasurer shall keep such accounts and make such reports as are required of him by law. He shall pay no money out of the school funds in his hands except upon the warrant of the school board, signed by the president and countersigned by the clerk. He shall pay all warrants properly drawn and signed when presented so long as there is any money in his hands or subject to his order, belonging to the proper fund, for their payment.

§ 12. AMENDMENT.] That Section 67 be amended to read as follows:

Sec. 67. ENDORSEMENT OF WARRANTS WHEN NO FUNDS TO PAY.] Whenever a warrant is presented to the treasurer for payment and there is no money in his hands or subject to his order belonging to the proper fund for the payment of such warrant, he shall indorse on such warrant "Presented for payment this . . . day of, 18. . . . , and not paid for want of funds," and shall sign such indorsement. If he has in his hands or subject to his order, money for the part payment of such warrant, he shall make such part payment and indorse the sum on the warrant and add "Balance not paid for want of funds," signing the same. He shall keep a correct register of all warrants so presented and indorsed. Every warrant thus presented and indorsed shall draw interest for the amount unpaid at eight (8) per cent. per annum from the date of such presentation and indorsement until paid; *Provided*, That whenever there shall come into the hands of the treasurer or subject to his order, money applicable to the payment of any warrant which has been so presented and registered, the treasurer shall notify in writing by mail the drawee of such warrant at his last known place of residence to present such warrant for payment, and interest shall cease upon every such warrant ten days after such notice shall have been sent and such money shall be held for the payment of such warrant.

§ 13. AMENDMENT.] That Section 68 be amended to read as follows:

Sec. 68. WARRANTS, WHAT TO SPECIFY.] Every warrant drawn by the clerk of the district board on the district treasurer shall specify the purpose for which the money is paid, the fund on which it is drawn, and the person, firm or corporation to whom paid, and shall have endorsed thereon that such warrant is issued within the constitutional debt limit; *Provided*, That no warrant shall be issued except for an indebtedness incurred prior to its issue.

§ 14. AMENDMENT.] That Section 74 be amended to read as follows:

Sec. 74. FURNITURE, MAPS, ETC.—CIRCULATING LIBRARY.] It shall furnish to each school all necessary and suitable furniture, maps, charts and apparatus, including Webster's International Dictionary. The school registers and all school blanks used shall be those furnished by the State Department of Public Instruction. It shall have power to purchase and keep for the use of the inhabitants of the school district a circulating library of the value of not more than fifty (50) dollars, to be selected by the school board from any list of books approved by the State Superintendent and furnished to the county superintendents for that purpose, and it shall not purchase any books not contained in such list. With the consent of a majority of the voters of the school district at a meeting duly called for that purpose, due notice of

which has been given as provided by law for other meetings of the voters of a school district, the district school board may purchase and select a library of the value of more than fifty (50) dollars but not to exceed five hundred (500) dollars in value. It shall have the care and custody of the library and may appoint as librarian any person suited thereto, including one of their number. It shall make rules to govern the circulation and care of the books while in the hands of the pupil or other person and shall prescribe and collect penalties for the injury done to any book by the act, negligence or permission of the person who draws the same or while in his possession. No book shall be loaned for a longer period than two weeks at any time to any one person and never to any person not a resident of the district. The library shall be open at least once each week for the accommodation of its patrons. It shall, under proper rules, permit teachers to take books from the library to their schools for use in illustrating any subject and for instruction. It may at any time exchange any part or all of its library with any other district or person, so far as different books may be so obtained, for equal values of the books exchanged and may at any time accept donations of books for the library; but it shall exclude therefrom all books unsuited to the cultivation of good character and good morals and manners, and no sectarian publications, devoted to the discussions of sectarian differences and creeds, shall be admitted to the library.

§ 15. AMENDMENT.] That Section 75 be amended to read as follows:

Sec. 75. TEACHERS, HOW EMPLOYED—SALARIES GRADED.] It shall employ the teachers of the schools of the district, and may dismiss any teacher at any time for plain violation of contract, gross immorality or flagrant neglect of duty; *Provided*, That no person shall be employed as teacher or permitted to teach in any public school who is not when so employed or permitted to teach the holder of a teacher's certificate valid in the county or district in which such school is situated; *Provided, further*, That every contract for the employment of a teacher must be in writing, and such contract must be executed before such teacher begins to teach in such school. It shall grade the salaries of teachers for the district in accordance with the grades of certificates; and no teacher holding a certificate of a lower grade shall be paid a salary equal to or in excess of that paid to a teacher of higher grade in the same district.

§ 16. AMENDMENT.] That Section 79 be amended to read as follows:

Sec. 79. DISTRICT TAX LEVY.] It shall have power to levy upon the property in the district a tax for school purposes of not exceeding thirty (30) mills on the dollar in any year, which levy shall be made by resolution of the board prior to the 20th day of July. The clerk shall immediately thereafter notify in writing the county auditor or county clerk of the amount of tax so

levied. It shall not have power to abate or reduce the amount of tax so levied after the county auditor or county clerk has been notified of the amount of levy.

§ 17. AMENDMENT.] That Section 81 be amended to read as follows:

Sec. 81. SCHOOL HOUSES AND SITES, HOW DETERMINED.] Whenever in the judgment of the board it is desirable or necessary to the welfare of the schools in the district, or to provide for the children therein proper school privileges, or whenever petitioned so to do by one-third of the voters in the district, the board shall call a meeting of the voters of the district, at some convenient time and place fixed by the board, to vote upon the question of the selection, purchase, exchange or sale of a school house site, or the erection, removal or sale of a school house. The president of the board shall be the chairman and the clerk of the board secretary of such meeting. In case either of these officers be not present, his place shall be filled by some one chosen by the voters present. Three public notices of the time, place and purposes of such meeting shall be posted in three public places in the district by the district clerk at least ten days prior to such meeting. If a majority of the voters present at such meeting shall by vote select a school house site, or shall be in favor of the purchase, exchange or sale of a school house, as the case may be, the board shall locate, purchase, exchange or sell such site, or erect, remove or sell such school house, as the case may be, in accordance with such vote of such majority; *Provided*, That it shall require a vote of three-fourths of the voters present and voting at such meeting to order the removal of a school house, and such school house so removed cannot be removed again within one year of the date of such meeting.

§ 18. AMENDMENT.] That Section 83 be amended to read as follows:

Sec. 83. SCHOOLS TO BE ORGANIZED ON PETITION.] If a petition signed by the persons charged with the support, and having the custody and care of nine or more children of school age, all of whom reside not less than two and one-half miles from the nearest school, be presented to the board asking for the organization of a school for such children, the board shall organize such school and employ a teacher therefor, if a suitable room for such school can be leased or rented at some proper location, not more than two and one-half miles distant from the residence of any one of said children; and if such petition be signed by the persons charged with the support and having the custody and care of twelve or more of such children the board shall organize a school and employ a teacher therefor, and if no suitable room for such school can be leased or rented the board shall call a meeting of the voters of the district for the selection and purchase of a school house site therefor, and the purchase or erection of a school house as provided for in Section 81 of this act. If at such meeting no

such site be selected, or if it be not voted to erect or purchase a school house for such school, the board shall select and purchase a school house site, and erect, purchase or move thereon a school house at a cost of not more than seven hundred (700) dollars for such house and furniture therefor.

§ 19. AMENDMENT.] That Section 86 be amended to read as follows:

Sec. 86. DISTRICT SCHOOLS, HOW ESTABLISHED — CONTROL OF AND STUDIES TO BE PRESCRIBED — TWO OR MORE DISTRICTS MAY JOIN TOGETHER—WHEN.] In any district containing four or more common schools and having an enumeration of sixty or more persons of school age residing therein, the board may call, and if petitioned so to do by ten or more voters in the district shall call a meeting of the voters of the district in the manner prescribed in Section 81 of this act to determine the question of the establishment of a district high school. If a majority of the voters at such meeting vote in favor of establishing such high school, the meeting shall further proceed to select a site therefor and to provide for the erection or purchase of a school building, or for the necessary addition to some school building therefor. Thereupon the board shall erect or purchase a building or make such addition for such high school, as voted at such meeting, and shall establish therein a district high school containing one or more departments, and employ a teacher or teachers therefor. Such school shall be kept in session for such time each year, not less than three months, as the board may determine. The board shall, subject to the approval of the county superintendent, grade such high school, and prescribe the studies to be pursued therein, and shall have the same management and control thereof as of the common schools in the district. Two or more adjacent school districts may join in the establishment and maintenance of such high school, when empowered so to do by a majority of the voters in each district at a meeting called and held as provided for in this section, in which case the building and furniture occupied and used for such high school, shall belong to the districts so uniting, and all the costs of maintaining such school, including wages of teachers and all necessary supplies, shall be paid by such districts in proportion to the assessed valuation of the property in each, and the employment of teachers therefor, and the management, control and grading thereof shall be vested in the joint boards of such districts, subject to the approval of the county superintendent of the county in which such school is situated.

§ 20. AMENDMENT.] That Section 87 be amended to read as follows:

§ 87. SCHOOL CENSUS—ANNUAL SCHOOL REPORT.] The board shall cause the clerk to make each year an enumeration of all unmarried persons of school age, being over six and under twenty years of age, having their legal residence in the district on the

1st day of December of that year, giving the name and age in years of each such person, and the name of the parent or guardian having the care or custody of such person. Such enumeration shall be made upon and in accordance with the blanks therefor furnished by the county superintendent and shall be returned to the county superintendent before the 20th day of December. A copy of such enumeration shall also be kept in the office of the district clerk. The board shall also cause the district clerk to make out an annual school report for the year beginning January 1 and ending December 31, containing such financial and statistical statements and items as shall be required by the State Superintendent of Public Instruction, upon and in accordance with the blanks furnished therefor by the county superintendent. Such annual report shall be made after January 1, carefully examined and certified as correct by the board at its regular meeting in January, and transmitted to the county superintendent before the 1st day of February following. A copy of such annual report shall be filed in the district clerk's office.

§ 21. AMENDMENT.] That Section 101 be amended to read as follows:

Sec. 101. SCHOOL BOARD TO LEVY TAX.] Every district school board shall have power and it shall be their duty to levy upon all the property subject to taxation in the district a tax for school purposes of all kinds authorized by law, not exceeding, in the aggregate, a rate of thirty (30) mills on the dollar in any one year. Such tax shall be levied by resolution of the board, prior to the 20th day of July in each year, which resolution shall be entered in the record of the proceedings of the board. The clerk shall immediately thereafter notify the county auditor in writing of the amount of tax so levied, and such notice shall be in substantially the following form:

State of North Dakota, }
 County of } ss.
 School District..... }
 To.....
 County Auditor of.....County.
 SIR: You are hereby notified that the school board of.....
 school district has levied a tax of..... (....) dollars upon
 all real and personal property in said school district, for school
 purposes. You will duly enter and extend such tax upon the county
 tax list, for collection, upon the taxable property of said school
 district, for the current year.
 Dated at.....this.....day of....., A. D. 189..

.....
 District Clerk.

The notice of a tax to pay any judgment against the district shall be in addition to the regular tax and shall be certified to the county auditor under the same general form, suitably changed; *Provided*, That if the boundaries of such district shall embrace a

portion of two counties, then the clerk of such district shall certify to the county auditor of the county in which is located the original district to which such portion of the district, embraced in the other county, is attached, in addition to the tax levy above mentioned, a list and valuation of all property subject to taxation in such portion of such district embraced in the other county, as shown by the assessor making the assessment in such county, township or assessor's district, and the auditor shall enter such property upon the tax duplicate of his county and levy all school taxes upon the same, and the county treasurer of the county shall collect the taxes levied thereon the same as other taxes are collected, and pay the same over to the treasurer of the district entitled thereto.

§ 22. AMENDMENT.] That Section 110 be amended to read as follows:

Sec. 110. OFFICE, WHEN DEEMED VACANT—REMOVAL.] Any office of a school district shall become vacant by resignation of the incumbent thereof; but such resignation shall not take effect until a successor has qualified according to law. Any office of a school district shall be deemed vacant if the person duly elected thereto shall neglect or refuse, for the period of two weeks after the beginning of the term for which he was elected, to accept and qualify for such office and serve therein. Any school officer may be removed from office by a court of competent jurisdiction, as provided by law for removal of elective civil officers.

§ 23. AMENDMENT.] That Section 121 be amended to read as follows:

Sec. 121. TEACHERS GRADES, HOW ESTABLISHED—RE-EXAMINATION OF TEACHERS, WHEN ALLOWED.] Such certificates shall be of three regular grades; the first grade for a term of three years, the second grade for a term of two years, and the third grade for one year, according to the ratio of correct answers of each applicant and other evidence of qualification appearing from the examination. No certificate shall be granted unless the applicant shall be found proficient in and qualified to teach the following branches of a common English education: Reading, writing, orthography, language lessons and English grammar, geography, United States history, arithmetic, and physiology and hygiene, and for a first and second grade can pass a satisfactory examination in theory and practice of teaching. In addition to the above, applicants for first grade certificates shall pass a satisfactory examination in civil government, physical geography, elements of natural philosophy, elements of physiology, elementary geometry and algebra. The percentage required to pass any branch shall be prescribed by the State Superintendent. In addition to these regular grades of certificates, the county superintendent may grant a permission to teach, until the next regular examination, to any person applying at any other time than at a regular examination who can show satisfactory reasons for failing to attend

such examination, subject to rules and regulations to be prescribed by the State Superintendent. Such permit shall not be granted more than once to any person. The written answers of all candidates for county certificates, after being duly examined by the county superintendent, shall be kept by him for the space of six months after such examinations, and any candidate, thinking an injustice has been done him or her, by paying a fee of two (2) dollars into the institute fund of the county and notifying both county and State Superintendents of the same, shall have his or her papers re-examined by the State Superintendent; the county superintendent shall, on receipt of such notice from said complaining candidate, transfer said papers to the State Superintendent, who shall re-examine such answers, and, if such answers warrant it, shall instruct the county superintendent to issue to such complaining candidate a county certificate of the proper grade, and the county superintendent shall carry out such instructions.

§ 24. AMENDMENT.] That Section 122 be amended to read as follows:

Sec. 122. QUALIFICATIONS OF TEACHERS — CONTRACTS, WHEN VOID.] No certificate or permission to teach shall be issued to any person under eighteen years of age; and no first grade certificate shall be issued to any person who is under twenty years of age and who has not taught successfully twelve school months; and a third grade certificate shall not be issued more than twice to the same person. The certificates issued by a county superintendent shall be valid only in the county where issued; *Provided*, That a first grade certificate may be renewed once without examination at the discretion of the county superintendent, upon payment of the proper fee for the Institute Fund, as provided in the case of examination; *Provided, further*, That a first grade certificate shall be valid in any other county in the State when endorsed by the county superintendent of such county. No person shall be employed or permitted to teach in any of the public schools of the State, except those in cities organized for school purposes under special laws, who is not the holder of a lawful certificate of qualification or permit to teach. Any contract made in violation of this section shall be void.

§ 25. AMENDMENT.] That Section 135 be amended to read as follows:

Sec. 135. TEACHERS' INSTITUTES—APPORTIONMENT OF FUNDS.] All money received by the county superintendent from examination fees shall constitute an institute fund for the county, and shall be used by him to aid in the support of teachers' institutes to be held within or for the county, and to pay necessary expenses incurred therein. The county superintendent shall, at the end of each year, submit a full and accurate statement of the receipts and expenditures of these funds, verified by his oath, to the State Superintendent; *Provided*, That the several persons designated as herein provided to act as conductors of teachers' institutes,

shall, at the close of each series of institutes, certify to the State Superintendent an itemized statement of all actual and necessary expenses incurred by such conductor in the discharge of his duties as conductor, and the State Superintendent shall apportion such total expense among the several counties in which such conductor was assigned to conduct the institute in proportion to the average attendance at such institute, but by such apportionment no county shall be apportioned a greater amount than the amount of the county institute fund on hand. The county superintendent shall present a bill to the county auditor for the amount of such expense apportioned to his county, and the auditor shall issue a warrant therefor as provided by law. All additional compensation and other incidental expenses of such county institute, except as provided by the State appropriation, shall be paid out of the county institute fund.

§ 26. AMENDMENT.] That Section 136 be amended to read as follows:

Sec. 136. APPROPRIATION FOR TEACHER'S INSTITUTE FUND — DESIGNATION OF CONDUCTORS.] There is hereby appropriated out of any funds in the State Treasury, not otherwise appropriated, the sum of fifty (50) dollars each year to each organized county in the State in which there are ten or more resident teachers, which shall be designated as a State Institute Fund, and which shall be used exclusively in employing persons of learning, ability and experience as conductors of teachers' institutes, and the further sum of ten (10) cents a mile for the distance actually and necessarily traveled by a lecturer for such institute. The State Superintendent, after consultation with the county superintendents as to the special needs and wants of their respective counties, shall appoint the time, place and duration of these institutes, and shall designate the persons to act as conductor of and lecturer at such institute, as in his judgment the needs of the various counties demand.

§ 27. AMENDMENT.] That Section 137 be amended to read as follows:

Sec. 137. INSTITUTE FUNDS, HOW PAID OUT.] It shall be the duty of the county superintendent in all cases to consult with the State Superintendent in reference to the management of such institutes, and, so far as practicable, to carry out the suggestions of the State Superintendent as to the modes of instruction. No salary shall be paid to any conductor of any institute not previously appointed or employed as herein provided. The money hereby appropriated from the State Treasury for the support of teachers' institutes, shall be paid to the persons to whom it is due, by warrant of the State Auditor, upon the State Treasury, which shall be issued upon the presentation of an account in due form received by the person to whom due, and approved by the State Superintendent; *Provided*, That no county shall receive more

than five (5) dollars from the appropriation for the payment of conductors' salaries for each day its institute is in session.

§ 28. AMENDMENT.] That Section 140 be amended to read as follows:

Sec. 140. SCHOOL AGE—WHO EXEMPT FROM COMPULSORY ATTENDANCE.] Every parent, guardian or other person having control of any child between eight and fourteen years of age, shall be required to send such child to a public school in the district, city, town or village in which he resides, at least twelve weeks in each school year, six weeks of which shall be consecutive; and every parent, guardian or other person, having control of any deaf child or youth between seven and twenty years of age, shall be required to send such child or youth to the School for the Deaf at the city of Devils Lake, for at least eight months in each school year; *Provided*, That such parent, guardian or other person having control of any child shall be excused from such duty by the school board of the district or the board of education of the city, town or village, whenever it shall be shown to their satisfaction, subject to appeal as provided by law, that one of the following reasons therefor exists, to-wit:

First. That such child is taught for the same length of time in a private school, approved by such board; but no school shall be approved by such board unless the branches usually taught in the public schools are taught in such school.

Second. That such child has already acquired the branches of learning taught in the public schools.

Third. That such child is in such a physical or mental condition (as declared by a competent physician, if required by the board) as to render such attendance inexpedient or impracticable. If no school be taught the requisite length of time within two and one-half miles of the residence of such child by the nearest road, such attendance shall not be enforced, but this provision shall not apply to deaf children in the State; *Provided, further*, That the common schools provided for in this act shall be at all times equally free, open and accessible to all children over six and under twenty years of age, residents of the school districts where they are held, or entitled to attend school under any special provisions of this act, subject to the regulations herein made and to such regulations as the several school boards and boards of education may prescribe equitably and justly and not in conflict with the provisions of law.

§ 29. AMENDMENT.] That Section 143 be amended to read as follows:

Sec. 143. CHILD LABOR PROHIBITED DURING SCHOOL HOURS, WHEN.] No child between eight and fourteen years of age shall be employed in any mine, factory or workshop or mercantile establishment, or, except by his parents or guardian, in any other manner, during the hours when the public schools in the city, town, village or district are in session, unless the person, firm or

corporation employing him shall first procure a certificate from the superintendent of the schools of the city, town or village, if one be employed, otherwise from the clerk of the school board or board of education, stating that such child has attended school for the period of twelve weeks during the year, as required by law, or has been excused from attendance as provided in Section 140 of this act; and it shall be the duty of such superintendent or clerk to furnish such certificate upon application of the parent, guardian or other person having control of such child, entitled to the same.

§ 30. AMENDMENT.] That Section 144 be amended to read as follows:

Sec. 144. PENALTY.] Every owner, superintendent or overseer of any mine, factory, workshop, or mercantile establishment, and any other person who shall employ any child between eight and fourteen years of age, contrary to the provisions of this article, shall be deemed guilty of a misdemeanor, and for every such offense shall, upon conviction thereof, be fined not less than twenty (20) nor more than fifty (50) dollars and costs. Every person authorized to sign a certificate, as prescribed in Section 143 of this act, who certifies to any materially false statement therein, shall be fined not less than twenty (20) nor more than fifty (50) dollars and costs.

§ 31. AMENDMENT.] That Section 148 be amended to read as follows:

Sec. 148. SPECULATION IN OFFICE PROHIBITED.] No school officer shall personally engage in the purchase of any school bonds or warrants, nor shall any such officer be personally interested in any contract requiring the expenditure of school funds (except for the purchase of fuel and such supplies as are in daily use, but not including furniture) or the expenditure of funds appropriated by the State, county, school corporation or otherwise for any school purpose connected with his office. Any violation of this section shall be a misdemeanor.

§ 32. AMENDMENT.] That Section 167 be amended and be designated Sections 167 and 168 to read as follows:

Sec. 167. PROPOSALS FOR BUILDING SCHOOL HOUSES.] Whenever any school house is built with funds provided in the manner herein authorized, the school board shall advertise at least thirty days in some newspaper printed in the county, or by posting notices for the same length of time in at least three of the most public and conspicuous places, if no newspaper is published in the county, for sealed proposals for building and furnishing such school house in accordance with plans and specifications, which shall be furnished by the school board, reserving the right to reject any and all bids, and if any of the proposals shall be reasonable and satisfactory, said board shall award the contract to the lowest responsible bidder, and shall require of such contractor a bond in double the amount of the contract, conditioned that he will prop-

erly account for all money and property of the school district that may come into his hands, and that he will perform the conditions of his contract in a faithful manner and in accordance with its provisions; and in case all the proposals shall be rejected, said board shall advertise anew in the same manner as before, and until a reasonable bid shall be submitted; *Provided, however,* That no member of the district school board, clerk or treasurer shall be interested, directly or indirectly, in any contract for building or furnishing any school house, provided for in this act.

Sec. 168. PROVISIONS OF THIS ACT APPLICABLE, HOW.] The provisions of this act shall be applicable to and authorize the issue of bonds by such school districts as have already built school houses and issued orders or warrants therefor, and any such school district may vote to bond the indebtedness incurred by reason of building and furnishing a school house, and purchasing a site for the same, and bonds may be issued in the same manner as herein provided for building and furnishing school houses.

§ 33. AMENDMENT.] That Section 169 be amended to read as follows:

Sec. 169. CITIES GOVERNED BY PROVISIONS OF THIS ACT.] All cities and incorporated towns and villages which have heretofore been organized under the general school laws and which are provided with a board of education shall be governed by the provisions of this article. Any city or incorporated town or village, having a population of more than 300 inhabitants, may be constituted a special school district, in the manner hereinafter prescribed, and shall then be governed by the provisions of this article; *Provided,* That any city heretofore organized for school purposes under a special act may adopt the provisions of this article by a majority vote of the voters therein, in the same manner as is provided for the organization of a new corporation under the provisions of this article.

§ 34. AMENDMENT.] That Section 192 be amended to read as follows:

Sec. 192. ELECTION OF BOARDS OF EDUCATION IN SPECIAL SCHOOL DISTRICTS.] On the third Tuesday in June in the year 1890, an election shall be held in each city, town or village organized as a special school district, at which the voters shall elect at large, five members of the board of education for such city, town or village, two of whom shall serve for one year, two for two years, and one for three years, and their respective terms shall be determined in such manner as the board may decide. Such members shall supersede the members of the board then existing, and shall enter upon the duties of their office on or before the second Tuesday in July, 1890. Annually thereafter on the third Tuesday in June, an election shall be held in each special district, at which such members of the board of education shall be elected at large as shall be necessary to fill all vacancies therein caused by expiration of terms of office or otherwise; and each mem-

ber elected shall serve for a term of three years, beginning with the second Tuesday in July following his election and until his successor is elected and qualified, except when elected to serve an unexpired term. The polls shall be opened at 9 o'clock a. m. and kept open until 4 o'clock p. m. of the day of such election.

§ 35. EMERGENCY.] Whereas an emergency exists in that many sections of the law herein amended are ambiguous, and that many words were improperly incorporated in the engrossing of the bill for said law, and that the incorporation of new features herein is in most cases simply a re-enacting of provisions of former laws that are necessary for the completion of the law herein amended, therefore this act shall be in force from and after its passage and approval.

Approved March 7, 1891.

CHAPTER 57.

[H. B. No. 105.]

AMENDING THE SCHOOL LAW OF 1890.

AN ACT to Amend Sections 90, 91, 92, 93, 94, 95, 96, 97, 98, 99 and 100 of Chapter 62, Laws of 1890, An Act to Provide for a Uniform System of Free Public Schools Throughout the State, and to Prescribe Penalties for Violation of the Provisions Thereof.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Sections 90, 91, 92, 93, 94, 95, 96, 97, 98, 99 and 100 of Chapter 62, Laws of 1890, be amended to read as follows:

Sec. 90. STATE TUITION FUND, HOW RAISED.] The net proceeds arising from all fines and penalties for violation of State laws, from leasing the school lands, the interest and income from the State Permanent School Fund, together with the school poll tax and all school taxes levied by general law, shall be collected and paid into the State Treasury in the same manner as is provided by law for the collection and payment of State taxes, and shall constitute the State Tuition Fund, which shall be apportioned among the several counties of the State in proportion to the number of children of school age in each as shown by the last enumeration authorized by law.

Sec. 91. COUNTY TREASURER TO REPORT RECEIPTS QUARTERLY TO STATE AUDITOR—STATE SUPERINTENDENT TO APPORTION FUNDS.] It shall be the duty of the county treasurer to receive from the proper officers the net proceeds of fines, penalties and forfeitures

for violation of State laws, to collect the school poll tax and all taxes levied for school purposes by general law and all moneys arising from leasing school lands within the county, and to forward a detailed statement of the money so collected, specifying the amount received from each of the above sources, to the State Auditor with the quarterly reports on the first of January, April, July and October. It shall be the duty of the State Auditor on or before the third Monday in February, May, August and November in each year to certify to the State Superintendent of Public Instruction the amount of the State Tuition Fund and the State Superintendent shall immediately apportion said fund among the several counties of the State in proportion to the number of children of school age residing in each as shown by the last enumeration provided for by law and to certify to the State Auditor, to the State Treasurer, and to the county treasurer and county superintendent of each county the amount apportioned to the respective counties. Immediately upon receipt of said apportionment from the State Superintendent as herein provided, the State Auditor shall draw a warrant upon the State Treasurer for the full amount of the State Tuition Fund apportioned to the several counties and shall deliver the same to the State Treasurer, taking his receipt therefor, and shall notify the several county treasurers of the amount due their respective counties, and that such warrant has been issued therefor, and the State Treasurer shall pay on such warrant to the several county treasurers the amount due their respective counties; *Provided, however,* That all moneys arising from interest on the Permanent School Fund and from leasing school lands shall be apportioned under a separate item, and such money shall be taken account of as a separate item by all officers making or certifying such apportionment, or through whose hands any portion of such fund shall pass, and it is further made the duty of the district treasurer to keep such fund separate from all other funds, and if at the close of the school year any part of said fund which was apportioned prior to the third Monday in November of said year, remains in the hands of the district treasurer, he shall return the same to the county treasurer, taking his receipt therefor, and the county treasurer shall return all such funds so returned, or that were not drawn by the district treasurer from the county treasurer, to the State Treasurer, who shall receipt for the same, and the county treasurer shall certify to the State Auditor the amount so returned to the State Treasurer.

Sec. 92. FUNDS DEFINED—FUNDS, HOW USED.] All money received by the school district from the apportionment made by the State Superintendent shall constitute and be designated the State Tuition Fund. All money received from district taxes, from subscription, from sale of property, or from any other source whatever, except from apportionment made by the State Superintendent, shall be designated the Special Fund. In addition to the

State Tuition Fund and the Special Fund, a sinking fund may be established as provided for by this act. The State Tuition Fund shall be used only in the payment of teachers' wages; *Provided*, That if the State Tuition Fund apportioned to any district in any one year is insufficient for the payment of teachers' wages in such district, any money on hand or available belonging to the Special Fund of such district may be applied to meet such deficiency; *Provided, further*, That if the State Tuition Fund apportioned to any one district in any one year is more than sufficient for the payment of teachers' wages in such district, the portion of such fund in excess of the amount so required may be applied to the payment of warrants drawn upon the Special Fund of such district, if such district has school the required number of months during such year as provided by law.

Sec. 93. FUNDS CONTROLLED AND PAID OUT BY DISTRICT TREASURER.] All funds shall be kept in the possession of or under the control of and paid out by the district treasurer, and he shall keep one general account for the whole district, for the entire receipts and expenditures, and separate itemized accounts as herein provided for each class of receipts and expenditures. His books shall at all times show, by entries under proper heads, all receipts of funds and payments therefrom, and enable any person readily to ascertain any balance in any account or any fund.

Sec. 94. WHEN DISTRICTS NOT ENTITLED TO TUITION FUND—ENUMERATION.] No school district shall be entitled to receive any portion of the State Tuition Fund that fails to make a report of the enumeration of children of school age in the manner provided by law, nor until such enumeration has been taken and reported as required by law. The county superintendent of schools shall not authorize the payment of money apportioned to any district unless the bond and oath of such treasurer, duly approved and certified, are on file in the office of the district clerk and a certificate thereof filed in the office of the county superintendent. New districts organized after the annual enumeration has been taken shall proceed immediately to take the enumeration as provided for by law, and after the receipt of such enumeration by the State Superintendent, through the county superintendent, the newly organized districts shall receive their proportionate share of the funds to be apportioned.

Sec. 95. APPORTIONMENT OF FUNDS BY COUNTY SUPERINTENDENTS.] Within thirty days and in not less than twenty days after receiving the certificate of apportionment from the State Superintendent the county superintendent shall apportion separately to the several school districts, special districts, and districts organized under special law, which are entitled to any portion of the State Tuition Fund, within the county in proportion to the number of children residing in each over six and under twenty years of age, excluding all married persons, as appears from the last enumeration authorized by law upon which the State

Superintendent made the apportionment to the several counties, and he shall immediately notify by mail or otherwise, in writing, each district treasurer of the amount of money due his school district, and shall certify to the county treasurer and to the county auditor the amounts due each school district. The county treasurer shall deliver to the several district treasurers upon the order of the county auditor the amounts apportioned to their respective districts, taking a receipt therefor.

Sec. 96. SPECIAL SCHOOL DISTRICTS ENTITLED TO FUND.] Special school districts shall be entitled to receive their proportion of the State Tuition Fund; *Provided*, That the clerk or secretary of the board of education thereof shall make a report to the county superintendent of the enumeration of children of school age therein at the time and in the manner prescribed in this act for other school districts to report the same.

Sec. 97. TREASURER'S ACCOUNTS—SETTLEMENT WITH BOARD ANNUALLY.] The district treasurer shall open his accounts anew at the beginning of each school year with each fund, and the balance in each fund shall be brought down and become the first entry in opening the account for the new year. At the annual meeting of the school board on the second Tuesday in January in each year, the school board shall make settlement with the district treasurer, and shall carefully examine his books, accounts and vouchers and shall ascertain if the amount of all warrants, bonds and coupons paid and redeemed or paid in part together with the cash in his hands or under his control is equal to the amount of the cash on hand at the beginning of the school year, together with all money received by him from all sources for school purposes during the year. The district treasurer shall deliver to the board at such annual meeting all warrants, bonds and coupons paid and redeemed by him during the school year and held by him as vouchers, taking the receipt of the board therefor, and such vouchers shall thenceforth be filed with the district clerk. He shall at that meeting make his annual report in triplicate, one copy to be preserved in the treasurer's office, one to be filed with the clerk of the school board, and one to be transmitted to the county superintendent of schools, and the board shall cause to be published an itemized statement of the receipts and expenditures of the preceding year. The treasurer's report shall show the following:

RECEIPTS.

The balance at the close of last year.
 The amount received into the State Tuition Fund.
 The amount received into the Special Fund.
 The amount received into the Sinking Fund.

EXPENDITURES.

The amount paid for school houses, sites and furniture.
 The amount paid for apparatus and fixtures.

The amount paid for teachers' wages.

The amount paid for services and expenses of school officers.

The amount paid for redemption of bonds.

The amount paid for interest on bonds.

The amount paid for incidental expenses.

The cash on hand at the close of the school year.

Such report shall include such other items as may be required by the district board or the State Superintendent, and shall be upon and in conformity with the blanks furnished him for that purpose.

Sec. 98. WHEN COUNTY TREASURER TO PAY FUNDS OVER TO DISTRICT TREASURER.] The treasurer of each district shall apply to the county auditor for an order, and the county treasurer shall pay over to him on such order all of the school money collected for such district and all school money apportioned to such district by the county superintendent, and the county auditor shall issue such order when notified by the county superintendent in writing that such district treasurer has qualified and filed his oath and bond as provided by law. But one such notice of qualification is required during the term of each district treasurer, and when a new one is appointed for any reason, or the incumbent has become disqualified, the clerk of the school board shall so inform the county superintendent, who shall also inform the county auditor. It shall be the duty of the county treasurer, when payment is made to any school treasurer of any funds herein provided for, to immediately notify the clerk of the school board of the payment of the same.

Sec. 99. TREASURER TO KEEP ACCOUNTS WITH SCHOOL CORPORATIONS.] Every county treasurer shall keep a regular account with each school corporation, in which he shall charge himself with all taxes collected by levy of the district school board and all sums apportioned to the district by the county superintendent of schools or other authority and all sums received for the district, and he shall credit himself with all payments made to the treasurer of the district, distinguishing between the items paid by apportionment, those from local taxes and those from other sources. He shall also credit himself with all payments for redemption or endorsement of warrants in the collection of taxes and shall deliver to the district treasurer a duplicate tax receipt for the amount of each warrant so endorsed or redeemed, together with all warrants so redeemed, at the time of making other regular payments to the district treasurer. To these credits to balance the accounts he shall add all items for legal fees, for collection and other duties.

Sec. 100. SCHOOL TAXES, WHEN TO BE COLLECTED.] It shall be the duty of the county treasurer to collect the taxes for school purposes at the same time and in the same manner that the county and State taxes are collected, and full power is hereby given to him to sell property for school taxes the same as is provided by

law for the collection of other taxes. Whenever an error occurs in any school corporation tax list, the district school board or board of education in special districts may, since all taxes are to be collected by the county treasurer, correct and refund such improper collection of taxes. All penalty and interest collected on delinquent school taxes shall be applied to the proper fund to which such delinquent taxes belong.

Approved March 11, 1891.

CHAPTER 58.

[H. B. No. 145.]

REPEALING SECTION 41 OF SCHOOL LAW OF 1890.

AN ACT Repealing Section 41 of Chapter 62, Session Laws of 1890, Entitled "An Act to Provide for a Uniform System of Free Public Schools Throughout the State, and to Prescribe Penalties for Violation of the Provisions Thereof."

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Section 41 of Chapter 62, Session Laws of 1890, A. D., is hereby repealed.

Approved March 7, 1891.

CHAPTER 59.

[S. B. No. 127.]

AUTHORIZING SPECIAL SCHOOL DISTRICTS TO REFUND BONDED INDEBTEDNESS.

AN ACT Authorizing Special School Districts to Refund Bonded Indebtedness, and to Transfer Certain Funds.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. DUTIES OF BOARD OF EDUCATION.] The board of education of any special school district, organized under the provisions of Article 19 of Chapter 62 of the Laws of 1890, or of any city governed by a special act or organized under Chapter 64 of the Laws of 1890, shall have power and are hereby authorized, when-

Sess. Laws 91—11

ever two-thirds of the number [members] of said board of education shall deem it necessary and for the best interests of such school district, to issue bonds for the purpose of refunding any outstanding bonds when the same become due; *Provided*, That such issue of bonds shall not exceed in amount the face value of the bonds they are issued to replace, and shall not bear a higher rate of interest than such bonds so to be refunded, and in no case shall the said refunding bonds bear a higher rate of interest than 7 per cent. per annum, nor run for a longer period than twenty years.

§ 2. BONDS MAY BE EXCHANGED.] Bonds issued under the provisions of this act may be exchanged at par value for an equal amount of outstanding bonds, or may be sold at not less than par value and the proceeds applied solely to the payment of the bonds to be refunded, except that any premium that may be received on the sale of such bonds shall be kept as a separate fund and used for the payment of the interest on said bonds.

§ 3. ISSUE OF BONDS, HOW GOVERNED.] In the issuance of the refunding bonds provided for in this act, the board of education shall be governed and limited by the provisions of Sections 202, 203, 204, 205, 206 and 207 of Chapter 62 of the Laws of 1890.

§ 4. TRANSFER OF FUNDS.] Any moneys remaining in the treasury of such school districts, appropriated or held for the purpose of paying such bonds so refunded, may, at the discretion of the board of education, at any time within six months after said refunded bonds have been taken up and cancelled, be transferred to the building or contingent fund of said district.

§ 5. REPEAL.] All act and parts of acts inconsistent with the provisions of this act are hereby repealed.

Approved March 6, 1891.

CHAPTER 60.

[H. B. No. 60.]

REQUIRING SCANDINAVIAN LANGUAGES TAUGHT AT UNIVERSITY.

AN ACT Requiring the Scandinavian Languages to be Taught at the State University at Grand Forks.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. SCANDINAVIAN PROFESSORSHIP.] That it shall be the duty of the Trustees of the State University at Grand Forks to cause to be taught at said institution the Scandinavian languages, and shall for that purpose immediately after the taking effect of this

act, employ as one of the teachers of said institution a professor learned in those languages.

Approved March 6, 1891.

CHAPTER 61.

[S. B. No. 20.]

AUTHORIZING INDEPENDENT SCHOOL DISTRICTS TO ISSUE BONDS.

AN ACT to Amend "An Act Providing for the Establishing of Independent School Districts in Cities Heretofore Organized for School Purposes, Under Special Laws, and Provided with Boards of Education."

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 15 of Chapter 64, Laws of 1890, be amended to read as follows:

Sec. 15. BONDS, ISSUE AUTHORIZED.] The board of education of said district are authorized and empowered, and it shall be their duty, whenever the said board shall deem it necessary in order to an efficient organization and establishment of schools in said district, and when the taxes authorized by this act shall not be sufficient, or shall not be deemed by said board burdensome upon the taxpayers of said district, from time to time, to issue bonds of said district in denomination not less than one hundred (100) dollars, payable at a time not to exceed twenty-five years after date and bearing interest at the rate not to exceed 7 per centum per annum, payable semi-annually, and upon their face to show they are issued for school purposes, and cause the same to be sold and negotiated at not less than par value, and the money realized therefrom deposited with the city treasurer to the credit of said board of education; and when any bonds shall be so negotiated it shall be the duty of said board of education of said district to provide by tax for the payment of the principal and interest of said bonds; *Provided, however,* That at no time shall the aggregate amount of bonds issued under the provisions of this act exceed three (3) cents on the dollar of valuation of the taxable property of said district to be determined by the last city assessment.

§ 2. EMERGENCY.] Whereas an emergency exists in that it is necessary to enable boards of education to issue bonds long prior to July 1, 1891, this act shall take effect and be in force from and after its passage and approval.

Approved January 29, 1891.

CHAPTER 62.

[S. B. No. 18.]

FIXING SALARIES OF COUNTY SUPERINTENDENTS OF SCHOOLS.

AN ACT to Amend Section 33 of Chapter 62 of An Act Passed at the First Legislative Assembly of the State of North Dakota, Known as the School Laws.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. That Section 33 [Chapter 62, Laws of 1890] be amended to read as follows:

Sec. 33. SALARY, HOW DETERMINED—DEPUTY—TRAVELING.] That the salary of the county superintendent shall be as follows: In each county having one school and not over five, one hundred (100) dollars; six schools and not over ten, two hundred (200) dollars; eleven schools and not over fifteen, three hundred (300) dollars; sixteen schools and not over twenty, four hundred (400) dollars; twenty-one schools and not over twenty-five, five hundred (500) dollars; twenty-six schools and not over thirty, six hundred (600) dollars; thirty-one schools and not over thirty-five, seven hundred (700) dollars; thirty-six schools and not over forty, eight hundred (800) dollars; forty-one schools and not over fifty, nine hundred (900) dollars; and for each additional ten schools or major fraction thereof, one hundred (100) dollars additional; *Provided*, That it shall not exceed \$1,200 in any county. In addition thereto he shall receive seven (7) cents a mile for the distance actually and necessarily traveled by him in the discharge of his duties. He shall at the end of every three months, make and furnish to the county commissioners an itemized statement of the distance so traveled in the discharge of his duties, which shall be audited by and ordered paid by said board of county commissioners. The amount of his salary shall be determined each year by the actual number of schools or separate departments in graded schools over which the county superintendent had official supervision the preceding year, and shall be paid out of the county general fund monthly, if the county commissioners have regular monthly meetings, otherwise in the amounts due at meeting of the commissioners for the transaction of general business upon the warrant of the county auditor after being audited by the commissioners. In every county which shall be organized for school purposes, after the passage of this act, the county superintendent shall be paid a salary at the rate of one hundred (100) dollars a year until the first Monday in October next following his election, after which his salary shall be fixed as provided for in this section.

The county superintendent may appoint a deputy, who shall perform the duties of the county superintendent in his absence from the county; *Provided*, That no additional salary shall be paid such deputy, except that in counties having eighty or more schools the county commissioners may appropriate not to exceed one hundred (100) dollars for clerical assistance in the office of the county superintendent but he shall be paid seven (7) cents a mile for the distance actually and necessarily traveled in the same manner the county superintendent is paid; *Provided, further*, That the county superintendent shall be responsible for the official acts of such deputy.

Approved March 6, 1891.

CHAPTER 63.

[H. B. No. 164.]

REPEALING SPECIAL SCHOOL LAWS.

AN ACT Providing for Bringing Independent School Districts Under the Provisions of the General School Laws, and for the Repeal of Certain Laws Providing for Independent Districts.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. INDEPENDENT SCHOOL ORGANIZATION UNDER SPECIAL LAWS ABOLISHED.] Any independent district organized for school purposes under a special law, which does not include or is not included in any city, or incorporated town or village organized for municipal purposes, shall become a part of the school district or districts in which it is located by the repeal of the special law organizing or governing such independent district. Any independent district organized for school purposes under a special law, or under any other law than the General School Laws of 1890, which includes or is included in any city or incorporated town or village organized for municipal purposes, shall become a special district by the repeal of the special or other law organizing or governing such independent school district. Any school district or special district so constituted or constituted in part shall be governed by Chapter 62, Laws of 1890, entitled "An Act to provide for a uniform system of free public schools throughout the State and to prescribe penalties for violation of the provisions thereof, and acts amendatory thereto;" *Provided*, That nothing in this act shall prevent any such independent district from coming under the operation of such General School Laws in the manner provided therein.

§ 2. OLD SCHOOL OFFICERS HOLD OVER.] The board of education or other governing board of such independent district shall continue to exercise the powers and duties devolving upon them under the provisions of such special or other law governing such independent district, the same as though such law had not been repealed, until the second Tuesday in July following the repeal of such special or other law; *Provided*, That all that portion of the general school laws which provide for an annual school election shall apply to such independent district and shall be in full force and effect for the purpose of electing school officers at such annual school election; and such officers shall be elected in and for the whole school district, including the independent district or portion of such independent district located therein, or in and for the special district, the same as though no law had ever existed providing for the organization of such independent district; *Provided, further*, That in a special district formed and created as herein provided, a full board of education, shall be elected as provided by law for first elections, but, that in school districts so formed and created as herein provided by the addition of such independent district, or portion thereof, there shall be elected only such officers as are required to fill the regular vacancies in the school offices of such school district heretofore organized.

§ 3. DEBTS AND ASSETS DETERMINED BY ARBITRATION.] When the boundaries of such school district or districts shall have been arranged as contemplated in this act, the determination and division of consolidation of all debts, property and assets of the several portions of such district or districts so consolidated, shall be made by arbitration as provided by law.

§ 4. REPEAL OF SPECIAL ACTS.] The special law entitled "An act establishing independent school district No. 1, Traill county, Dakota Territory," approved March 13, 1885, Chapter 41 of the Special and Private Laws of 1881, entitled "An act providing a board of education for the city of Bismarck and for other purposes," approved March 4, 1881, are hereby repealed subject to the provisions contained in this act.

§ 5. EMERGENCY.] An emergency exists in that the general school laws provide for the annual election of school officers prior to the 1st day of July in each year, and that it is necessary for the voters in any independent district organized under special or other law, which may be brought under the operation of the general school laws as herein provided to vote for the election of such officers as shall be elected annually in the school district or districts of which such independent districts shall form a part, therefore that portion of the general school laws which provide for such annual school election shall take effect and be in force in due time for such election and for all notices therefor prior to the 1st day of July following the repeal of such special or other law.

Approved March 7, 1891.

CHAPTER 64.

[S. B. No. 170.]

REPEALING CERTAIN NORMAL SCHOOL ACT.

AN ACT Repealing Chapter 13 of the Special Laws of 1883, Entitled "An Act to Locate and Establish a Territorial Normal School."

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. REPEAL.] That Chapter 13 of the Special Laws of 1883, entitled "An Act to locate and establish a Territorial Normal School," be and the same is hereby repealed.

§ 2. EMERGENCY.] Inasmuch as it is necessary to perfect the title to the property involved in this act before transfer can be made, therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 9, 1891.

CHAPTER 65.

[S. B. No. 123.]

AMENDING LAW OF 1890 PROVIDING FOR LEASE AND SALE OF SCHOOL LANDS.

AN ACT to Amend Sections 2, 5, 6 and 11 of Chapter 146 of the General Laws of the Year 1890, Entitled "An Act to Provide for the Leasing and Sale of the Common School Lands of North Dakota."

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 2 of Chapter 146 of the General Laws of the Year 1890, be amended so as to read as follows, to-wit:

Sec. 2. LIST OF SCHOOL LANDS—HOW MADE.] The superintendent of schools of each county of this State, in which the common school lands have been surveyed and designated, shall immediately upon the passage, approval and taking effect of this act, and in the manner and form prescribed by the Board of University and School Lands, make a complete list of the school lands within his county, with such facts and information concerning the occupancy and cultivation of the several tracts thereof as said Board

of University and School Lands may require, and upon the completion of said list, shall at once transmit a copy thereof to the State Superintendent of Public Instruction; *Provided*, That it shall be the duty of said Board of University and School Lands, at such time each year as they may decide upon, to prepare a list of all the common school lands in the several counties of this State that are intended to be leased, and transmit a certified copy to the county board of appraisal of each of the several counties in said State, or so much thereof as relates to each of said counties, except that if an appraisal of said lands has been made by any county board of appraisal, as provided by law, within two years next preceding the time of such appraisal herein contemplated, such appraisal shall not be made by such county board of appraisal; but the list of lands herein contemplated shall be prepared and equalized by the Board of University and School Lands; *Provided, further*, That the county board of appraisal of each county, or any two of its members, shall, within ten days after the receipt of such certified copy, proceed to appraise the lands described in said list at their cash value, as near as can be determined, describing each tract or subdivision in parcels not greater than 160 acres, more or less, according to the Government survey, and they shall set opposite each described tract or parcel of land their appraised valuation thereof; and when said list is completed, which shall not be later than thirty days after the receipt of said certified copy, the county board of appraisal, or the members of the same who made such appraisement, shall certify to its correctness and make duplicate copies, one of which shall be forwarded immediately to the Board of University and School Lands and the other to be filed in the office of the county auditor for reference; and be it *Further Provided*, That the Board of University and School Lands shall proceed to equalize the lists so returned as to counties, by adding thereto or taking therefrom such an uniform percentage as may, in their judgment, seem proper and fair, in order to arrive at a just and equitable equalization between the several counties, and when advertising the same for lease, they shall set opposite each description the value thereof, as equalized by them, which valuation shall form the basis for leasing the same.

§ 2. AMENDMENT.] That Section 5 of said Chapter 146 be amended so as to read as follows:

Sec. 5. LANDS, HOW LEASED—ANNUAL RENT, HOW PAID.] The leasing shall be at public auction to the highest bidder, at the court house of the county within which the lands to be leased are situated, and between the hours of 10 o'clock a. m. and 5 o'clock p. m. only. Said leasing shall continue from day to day until all tracts or parcels of lands advertised for lease shall have been leased or offered for lease; *Provided*, That the time for leasing the same shall not exceed ten days in any county, but that it may

be adjourned over the Sabbath, or any legal holiday or to such day or days as may be determined upon by the Board of University and School Lands. In counties where a large number of tracts of land are to be leased, the lands situated in certain townships may be designated in the advertisement to be leased on designated days, and in such case said lands shall be leased or offered for lease on such designated days, or for want of time for the leasing or offering for lease of all such designated lands, the leasing of those unoffered may be adjourned until the following day or days, when they must be the first lands offered for lease. Such lands as shall not have been specially subdivided shall be leased or offered for lease in tracts of one-quarter section each, and those so subdivided in the smallest subdivision thereof. The annual rent in all cases of lease shall be payable, in advance; *Provided*, That in offering any tract or parcel of land, no bid shall be entertained until the bidder therefor deposits 50 per cent. of the minimum price, before said bidding is closed, which deposit, should he be the successful bidder, shall be applied as part payment on the land so leased by him, but should he fail to pay the balance required on his said bid, he shall forfeit the money so deposited. Should he not be the successful bidder the money so deposited shall be returned to him.

§ 3. AMENDMENT.] That Section 6 of Chapter 146 be amended so as to read as follows:

§ 6 LEASING, HOW CONDUCTED—MINIMUM VALUE—RECORD OF.] It shall be the duty of the superintendent of schools and the county auditor of the respective counties in which the leasing of such lands are to be made to conduct the leasing of said lands in accordance with the provisions of this act, and such directions as shall be prescribed therefor by the Board of University and School Lands; *Provided*, That said superintendent of schools and county auditor shall in offering said lands for lease, entertain no bid unless it shall be equal to 5 per cent. of the value of cultivated lands, or of 2½ per cent. of the value of uncultivated lands as shown by the published equalized statement, which shall be the minimum price for the lease thereof, and any tract or parcel offered and not disposed of for want of a sufficient bid shall be offered from day to day until the time allowed to receive such bids shall have expired, and all tracts or parcels not leased at that time shall be reported to the Board of University and School Lands; *Provided, further*, That for all lands hereafter leased, the lessee shall pay to the county treasurer of his respective county prior to January 1st in each year the annual rental due on said land for the subsequent season and should he fail to make such payment at the time required, his contract shall be declared forfeited and the land so forfeited shall be advertised and leased the same as other lands mentioned in this act; and, *Provided, further*, That all lands leased prior to the passage of this act may at the discretion of the Board of University and School Lands

be re-advertised and be declared forfeited, should the annual rental for that year be not paid as provided in the contract signed and executed by the lessee and shall be offered and leased the same as if such land had never been leased. After all such land so advertised shall have been leased or offered for lease, said superintendent and auditor shall make in triplicate a verified statement of the tracts of lands so leased, the time for which they were leased, the name of the lessees, whether leased for cultivation or meadow and pasturage, and the amount to be paid annually for such lease. One copy of this statement shall be transmitted to the Board of University and School Lands, one copy shall be delivered to the county treasurer, and the third copy shall be filed in the office of the superintendent of schools of the county.

§ 4. AMENDMENT.] That Section 11 of said Chapter 146 be amended so as to read as follows:

Sec. 11. FEES FOR CONDUCTING, APPRAISING AND LEASING SCHOOL LANDS.] The county auditor, superintendent of schools and the chairman of the board of county commissioners shall each receive for his services in appraising and leasing such school lands, at the rate of three (3) dollars per day and upon the approval of the Board of University and School Lands five (5) cents per mile for every mile actually traveled by him in appraising said lands, the same to be paid out of the interest and income of the Permanent School Fund by the State Treasurer upon the warrant of the State Auditor. The county treasurer shall receive for his services in connection with said leasing of said lands one-half of 1 per cent. upon the amount of rent by him received and paid over to the State Treasurer, to be by him reserved from such rent.

§ 5. REPEAL.] All acts or parts of acts in conflict herewith are hereby repealed.

§ 6. EMERGENCY.] As the necessary steps for leasing said lands as specified in this act should be taken long prior to July 1st; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 7, 1891.

ELECTIONS.

CHAPTER 66.

[S. B. No. 178.]

THE AUSTRALIAN ELECTION LAW.

AN ACT Providing for Printing and Distributing Ballots at Public Expense, and to Regulate voting at all General Elections, Except Municipal, Town or School Elections.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **BALLOTS, HOW PRINTED.]** All ballots cast at elections for public officers within this State (except municipal and town officers and all school officers except Superintendent of Public Instruction) shall be printed and distributed at public expense, as hereinafter provided. The printing of ballots and cards of instruction for the electors in each county and the delivery of the same to the election officers, as hereinafter provided, shall be a county charge, the payment of which shall be provided for in the same manner as the payment of other county expenses.

§ 2. **CANDIDATES, HOW NOMINATED.]** Any convention, held for the purpose of making nominations for public office, and also electors to the number hereinafter specified, may nominate candidates for public office, to be filled by election within the State. A convention, within the meaning of this act, is an organized assemblage of electors or delegates, representing a political party or principle.

§ 3. **CERTIFICATES OF NOMINATION.]** All nominations made by such convention shall be certified as follows: The certificate of nomination, which shall be in writing, shall contain the name of each person nominated, his residence, his business, his address and the office for which he is named, and shall designate, in not more than five words, the party or principle which such convention represents, and it shall be signed by the presiding officer and secretary of such convention, who shall add to their signatures their respective place of residence, their business and address. Such certificate, made out as herein required, shall be delivered by the secretary or president of such convention by registered letter or in person, without charge, to the Secretary of State or to the county auditor, as hereinafter required.

§ 4. **CERTIFICATES, WHERE FILED.]** Certificates of nomination for candidates for offices, to be filled by the electors of the

entire State, or of any division or district greater than a county, and for all Legislative officers, shall be filed with the Secretary of State. Certificates of nomination for county officers shall be filed with the auditor of the respective counties wherein the officers are to be elected.

§ 5. CANDIDATES MAY BE NOMINATED OTHERWISE THAN BY CONVENTION, HOW.] Candidates for public office may be nominated otherwise than by convention, in the manner following: A certificate of nomination, containing the name of a candidate for the office to be filled, with such information as is required to be given in certificates provided for in Section 3 of this act, shall be signed by electors residing within the district or political division in and for which the officer or officers are to be elected, in the following numbers: The number of signatures shall not be less than 200 when the nomination is for an office to be filled by the electors of the entire State, and need not exceed 100 when the election is for an office to be filled by the electors of a county, district or other division less than a State; *Provided*, That the said signatures need not be appended to one paper. Each elector signing a certificate shall add to his name his place of residence, his business and his address. Such certificate may be filed as provided for in Section 4 of this act, in the same manner and with the same effect as a certificate of nomination made by a party convention.

§ 6. CERTIFICATE OF NOMINATION WHAT TO CONTAIN.] No certificate of nomination shall contain the name of more than one candidate for each office to be filled. No person shall join in the nomination of more than one person for each office to be filled, and no person shall accept a nomination to more than one office.

§ 7. CERTIFICATES TO BE PRESERVED—ELECTION PRECINCTS, HOW FORMED.] The Secretary of State and the auditors of the several counties shall cause to be preserved in their respective offices for six months all certificates of nomination filed in their respective offices under the provisions of this act. All such certificates shall be open to public inspection under proper regulations, to be made by the officers with whom the same are filed. The board of county commissioners of each county in the State shall, at their first session after the taking effect of this act, divide their respective counties into election precincts and establish the boundaries of the same. The entirety of civil townships, cities or villages as voting precincts shall be preserved as much as possible, except when such preservation would conflict with the provisions of this section. In such case the civil township, city or village shall be divided into two or more precincts; but in no case shall a precinct be composed of parts of two civil townships or part of a township and city or village or part thereof. Such board of commissioners shall designate one voting place in each precinct, and each precinct shall contain 250 electors, or less, based on the number of votes cast at the last general election; but no precinct shall

contain more than 300 electors. If, at any election hereafter, 300 or more votes shall be cast at any voting place, it shall be the duty of the inspector in such precinct to report the same to the board of county commissioners, who shall, at their next regular meeting, divide such precinct as nearly as possible so that the new precincts formed thereof shall each contain 250 electors, as nearly as practicable.

§ 8. WHEN CERTIFICATES OF NOMINATION TO BE FILED.] Certificates of nominations to be filed with the Secretary of State shall be filed not more than sixty days and not less than thirty days before the day fixed by law for the election of the persons in nomination. Certificates of nomination herein directed to be filed with the auditor shall be filed not more than sixty days and not less than twenty days before the election; *Provided*, That the provisions of this section shall not be held to apply to nominations for special elections to fill vacancies caused by death, resignation or otherwise.

§ 9. SECRETARY OF STATE TO CERTIFY NOMINATIONS FOR STATE OFFICE.] Not less than twenty-five nor more than thirty days before an election to fill any state or district office, the Secretary of State shall certify to the auditor of each county, within which any of the electors may by law vote for candidates for such office, the name and place of residence of each person nominated for such office, as specified in the certificates of nomination filed with the Secretary of State.

§ 10. NOMINATIONS TO BE PUBLISHED.] At least ten days before an election to fill any public office to be filled under the provisions of this bill, the auditor of each county shall cause to be published in one or more newspapers within the county the nominations to office certified to him under the provisions of this act. The auditor shall make such publications daily, until the elections, in counties where daily newspapers are published; but if there be no daily newspaper published within the county, two publications in each newspaper will be sufficient; and if there be no paper published in any county, written or printed notices shall be posted in not less than three conspicuous places in each precinct. One of such publications in each newspaper shall be upon the last day upon which such newspaper is issued before election.

§ 11. IN CASE NOMINEE DECLINES.] Whenever any person nominated for public office, as in this act provided, shall, at least twenty-five days before election, in writing signed by him, notifying the officer with whom the certificate nominating him is by this act required to be filed that he declines such nomination, such nomination shall be void.

§ 12. VACANCIES ON TICKET, HOW FILLED.] Should any person so nominated die before the printing of the tickets, or decline the nomination as in this act provided, or should any certificate of nomination be or become insufficient or inoperative from any cause, the vacancy or vacancies thus occasioned may be filled in

the manner required for original nominations. If the original nomination was made by a party convention which had delegated to a committee the power to fill vacancies, the committee of the political party he represents may, upon the occurring of such vacancy, proceed to fill the same. The chairman and secretary of such committee shall thereupon make and file with the proper officer a certificate setting forth the cause of the vacancy, the name of the person nominated, the office for which he was nominated, the name of the person for whom the new nominee is to be substituted, the fact that the committee was authorized to fill vacancies, and such further information as is required to be given in an original certificate of nomination. The certificate so made shall be executed in the manner prescribed for the original certificate of nomination, and shall have the same force and effect as an original certificate of nomination. When such certificate shall be filed with the Secretary of State, he shall, in certifying the nominations to the various auditors, insert the name of the person who has thus been nominated to fill a vacancy in place of that of the original nominee. And in the event that he has already sent forth his certificate, he shall forthwith certify to the auditors of the proper counties the name and place of residence of the person so nominated to fill a vacancy, the office he is nominated for, the party or political principle he represents, and the name of the person for whom such nominee is substituted. And any failure to publish the name of a person or persons so substituted shall not invalidate the election.

§ 13. IN CASE OF VACANCY AFTER TICKETS ARE PRINTED.] When any vacancy occurs before election day and after the printing of the tickets, and any person is nominated according to the provisions of this act to fill such vacancy, the officer whose duty it is to have the tickets printed and distributed shall thereupon have printed on a requisite number of stickers the name of such substituted candidate and no other name, and shall mail them by registered letter, or send by other reliable method, to the judges of election in the various precincts affected by said vacancy, and the judges of election whose duty it is made by the provisions of this act to distribute the tickets, shall affix such stickers in the proper place on each ticket before it is given out to the electors.

§ 14. CONSTITUTIONAL AMENDMENTS TO BE ADVERTISED.] Whenever a proposed constitution or constitutional amendment or other question is to be submitted to the people of the State for popular vote, the Secretary of State shall duly, and not less than thirty days before election, certify the same to the auditor of each county in the State, and the auditor of each county shall include the same in the publication provided for in Section 10 of this act. Questions to be submitted to the people of a county shall be advertised as provided for nominees for office by said section.

§ 15. WHEN ELECTOR MAY WRITE NAME OF CANDIDATE ON TICKET.] Except as in this act otherwise provided, it shall be

the duty of the auditor of each county to provide printed ballots for every election for public officers in which electors, or any of the electors within the county, participate, and to cause to be printed on the ballots the name of every candidate whose name has been certified to or filed with the auditor in the manner provided for in this act. Ballots other than those printed by the respective county auditors, according to the provisions of this act, shall not be cast or counted in any election. Nothing in this act contained shall prevent any voter from writing or pasting on his ballot the name of any person for whom he desires to vote for any office, and such vote shall be counted the same as if printed upon the ballot and marked by the voter.

§ 16. (a) INSPECTOR OF ELECTIONS, DUTY OF—ELECTION BOARD, HOW CONSTITUTED.] The chairman of the board of supervisors in organized townships shall, by virtue of his office be inspector of elections; in the case that the township is composed of more than 300 voters, then the said chairman shall be inspector of elections for that precinct in which he lives, and shall have the power of appointing the inspector in the other precinct or precincts, which are the component parts of the township of which he is chairman. In all cities the senior alderman shall be inspector of election for the precinct which he represents, and in incorporated villages the president of the village board of trustees shall so sit. The inspector shall, prior to the opening of the polls in his precinct, appoint as judges of election two qualified electors of such precinct, who shall have been resident householders therein for at least ninety days next preceding such election, and who are members of different political parties, and of the parties which cast the highest number of votes at the preceding general election; *Provided*, That if, at least one week prior to such election, the chairman of the county central committee of either of the two parties that cast the largest number of votes in the State at the last general election shall nominate a member of such party as judge, having the same qualifications as above prescribed, and upon presenting certificate of such nomination signed by said chairman, he shall be appointed by the inspector, and such judges, together with the inspector, shall constitute a board of election. No person shall be eligible as a member of the board of election who has anything of value bet or wagered on the result of such election, or who is a candidate or is father, father-in-law, brother, brother-in-law, uncle or nephew of any candidate at such election. If, at any time before or during an election, it shall be made to appear to any inspector, by the affidavit of two or more qualified electors of the precinct, that either of the judges is disqualified under the provisions of this act, he shall at once remove such judge and fill the place with a qualified person of the same political party as the judge removed, and in case such disqualified judge shall have taken the oath of office hereinafter described, the inspector shall

place such oath and affidavit before the states attorney of the county.

(b.) DUTIES OF COUNTY SUPERINTENDENTS IN RELATION TO ELECTION BOARDS AND INSPECTORS.] In precincts other than organized townships, the board of county commissioners shall, at the June term of the said board next preceding any election, appoint in each precinct, as inspector of such election, some qualified elector of such precinct, who shall have been a resident householder in such precinct for at least ninety days next preceding such election, and shall be a legal voter in the State. Such board of county commissioners shall hold a special session one month before each election, and shall fill all vacancies that may have occurred in the office of inspector and shall fill any vacancy occurring thereafter at any regular or called session one week before each election. Such appointed inspector shall, before the time of opening the election in his precinct, appoint two election judges, in the same manner and under the same requirements as provided for township inspectors acting as inspectors, and such judges and inspector shall constitute the board of election for that precinct. If any member of an election board shall have failed to appear at the hour appointed for the opening of the polls, the remainder of the board shall select a member of his political party to serve in his stead; *Provided*, That if the qualified electors of his party present at the polls shall nominate a qualified person for such vacancy, such nominee shall be appointed. If none of the members of the election board shall appear at the hour appointed for opening the polls, the qualified electors present shall elect a board *viva voce*, as nearly as possible in conformity with the provisions hereof.

(c) POLL CLERKS.] Such board of election shall appoint as poll clerks two qualified electors of such precinct, one from each of the two parties that cast the largest vote in the last State general election.

§ 17. BALLOTS, WHAT TO CONTAIN, HOW PRINTED.] All ballots prepared under the provisions of this act shall be white and of a good and uniform quality of paper, and the names shall be printed thereon in black ink. At the head of each ballot shall be printed the name or designation of every political party represented on such ballot which cast 5 per cent. of the whole vote at the last general election. Every ballot shall contain the name of every candidate whose nomination for any office specified in the ballot has been certified or filed according to the provisions of this act and no other names. The names of candidates for office shall be arranged under the designation of the office, in alphabetical order, according to the surnames, except that the names of electors of President and Vice-President of the United States, presented in one certificate of nomination, shall be arranged in a separate group. Every ballot shall also contain on the same line and immediately following the name of each candidate the name of the party or principle which such candidate represents, as con-

tained in the certificates of nominations. At the end of the list of candidates for each office shall be left a blank space, large enough for the name of a candidate to be written in. There shall be a margin on each side at least half an inch in width, and a reasonable space between the names to be printed thereon, so that the voter may clearly indicate, in the way hereinafter provided, the candidate or candidates for whom he wishes to cast his ballot. Whenever the Secretary of State has duly certified to the auditor any question to be submitted to a vote of the people, the auditor shall have printed on the regular ballots the question in such form as will enable the electors to vote upon the question so presented in the manner hereinafter provided. The auditor shall also prepare the necessary ballots whenever any question is required by law to be submitted to the vote of the electors of any locality, and not to the State generally.

§ 18. NUMBER OF BALLOTS—HOW DISTRIBUTED—POLL BOOK, ETC.] The auditor of each county shall provide for each election precinct in the county 150 ballots for every fifty or fraction of fifty electors registered in the precinct in packages or blocks containing 150 ballots each. If there is no registry in the precinct the county auditor shall provide ballots to the number of 150 for every fifty or fraction of fifty electors who voted at the last preceding election in the precinct; *Provided*, That if the electors of any precinct have materially increased, then such auditor may provide in the same proportion the necessary additional ballots according to best information obtainable. The ballots to be printed by the county auditors shall be printed and held ready for inspection by the candidates and their agents, at least five days before a general election. And five days before said election, five printed and exact copies of the ballots, except that they shall be printed upon tinted paper, shall be sent to the inspector at each precinct, to be by him posted in five conspicuous places in his precinct, one being posted at the polling station. And if it be found that the ballots, as provided to the inspector for voting purposes, and the said copies be not identical in all respects except in color, then the difference shall be held to be *prima facie* evidence of fraud on the part of the auditor and he shall be liable to punishment as provided elsewhere for violation of this law. At the time of distribution of said copies, the auditor shall cause to be delivered to the inspectors of the several precincts a suitable number of blank forms of poll books and also forms of election returns, with the proper captions, forms of oaths, and forms of certificates and tally papers necessary to carry out the provisions of the election laws.

§ 19. IN CASE OF ERROR IN PUBLICATION.] Whenever it shall appear by affidavit that an error or omission has occurred in the publication of the names of the candidates nominated for office, or in the printing of the ballots, the district or county judge may, upon application of an elector, by order require the auditor to show cause why such error should not be corrected.

§ 20. **BALLOTS, HOW DELIVERED—OFFICIAL STAMPS.]** The several auditors aforesaid shall deliver or cause to be delivered, by mail or other reliable method, to the inspector aforesaid one package containing 150 official ballots for every fifty voters or fraction thereof who voted at the last preceding election held in the district, town, county, city or village for which they are printed or more as provided for in Section 18 of this act. Such official ballots shall be delivered to such inspector at least twenty-four hours before the hour of opening the polls on election day. Said official ballots shall be sent in sealed packages, with marks on the outside clearly designating the polling place for which they are intended and the number of ballots enclosed. Such inspector shall, on delivery to him of such packages, return receipts therefor to the auditor from whom received. He shall also deliver to the said inspector a rubber or other stamp, with ink pad, for the purpose of stamping or designating the official tickets, as hereinafter provided. Said stamp shall contain the words "Official Ballot," the name or number of the election precinct, the name of the county, the date of the election. The stamps and ballots shall be given to the inspectors of each election precinct; but in case it may be impracticable to deliver such stamps and ballots to such inspector, then they may be delivered to one of the judges of election of any such precinct. And in making the appointment of judges of election under this act, not more than a majority of such judges of election shall be appointed from any one political party for each precinct.

§ 21. **EXAMINATION OF BALLOTS AND BOX.]** On the opening of the polls at each polling place, the inspector shall produce the sealed package of official ballots and publicly open it and deliver one package or block of ballots therein contained to the ballot clerk as heretofore provided for. The other blocks of ballots, if any, shall be retained by the inspector until they are called for by the ballot clerks and needed for the purpose of voting. And before declaring the polls open, he shall see that the ballot box is empty and allow all judges to satisfy themselves on this point. After such inspection he shall relock the box.

§ 22. **ELECTION BOOTHS, HOW BUILT.]** The inspectors of election shall provide in their respective polling places a sufficient number of places, booths or compartments, which shall be furnished with such supplies and conveniences as shall enable the voter conveniently to prepare his ballot for voting, and in which electors may mark their ballots, screened from outside observation, and a guard rail with an opening so constructed that only persons within such rail can approach within ten feet of the ballot boxes, or the places, booths or compartments herein provided for. The number of such places, booths or compartments shall not be less than one for every fifty electors or fraction thereof in the precinct. No election shall be held in a room in which spirituous or malt liquors are commonly sold. Not more than one elector for each

booth engaged in receiving, preparing or depositing their ballots shall be permitted within the railing at one time. One challenger appointed and designated from each of the political party organizations shall be entitled to stand at the opening of the railing on the outside. If any person offering to vote shall be challenged by one of such challengers or by any one of the election board, unless such challenge be withdrawn, he shall stand aside and shall not vote unless he make affidavit in writing that he is a legally qualified elector of the precinct. The expense of providing such places or compartments and guard rails shall be a public charge and shall be provided for in the same manner as the other election expenses. And the choice of the material for the construction of said booths or compartments shall be left to the inspector, and he shall in all cases choose material not transparent as shall provide perfect secrecy and carry out the provisions of this section. On or before the 1st day of September of each year in which an election is to be held, the officers now charged by law with the division or alteration of election precincts shall, as far as necessary, alter or divide the existing election precincts in such manner that each election precinct shall not contain more than 300 voters.

§ 23. OFFICIAL BALLOT, HOW GIVEN TO ELECTOR.] At an election it shall be the duty of the inspector or one of the judges of election, to deliver ballots to the qualified electors. Before delivering any ballot to an elector, the said inspector or judge shall print on the back and near the top of, the ballot, with the rubber or other stamp provided for the purpose, the designation "Official Ballot," and the other words on the said stamp as provided for in Section 20 of this act, and also write his initials thereon. Each qualified elector shall be entitled to receive from the said judges one ballot.

§ 24. HOW ELECTOR SHALL PREPARE BALLOT.] On receipt of his ballot, the elector shall forthwith, and without leaving the polling place, retire alone to one of the places, booths or compartments provided, to prepare his ballot. He shall prepare his ballot by marking a cross before the name of the person or persons for whom he intends to vote. For example, "X," or in case of a ballot containing a constitutional amendment, or other question, to be submitted to the vote of the people, by crossing out therefrom parts of the ballot in such manner that the remaining part shall express his vote upon the question submitted, or the elector may write in the blank spaces or paste over any other name the name of any person for whom he may wish to vote. After preparing his ballot the elector shall fold it so that the face of the ballot will be concealed, and so that the indorsement stamped thereon may be seen. He shall then vote forthwith and before leaving the polling place, and after voting he shall immediately leave the room; *Provided, however,* That any elector who desires to vote an entire group or a straight party ticket may mark a cross as above described against the political designation of such group, or —

party ticket, and shall then be deemed to have voted for all the persons named in such group or in such party ticket whose names shall not have been erased, the former provisions of this section notwithstanding.

§ 25. ONLY ONE PERSON IN BOOTH.] Not more than one person shall be permitted to occupy any one booth at one time, and no person shall remain in or occupy a booth or compartment longer than may be necessary to prepare his ballot, and in no event longer than five minutes; *Provided*, That the other booths or compartments are occupied.

§ 26. IN CASE ELECTOR SPOILS BALLOT.] No person shall take or remove any ballot from the polling place before the close of the polls. If any voter spoils a ballot he may successively obtain others, one at a time, not exceeding three in all, upon returning each spoiled one. The ballots thus returned shall be immediately cancelled, and together with those not distributed to the voters, shall be preserved and shall be secured in sealed packages and returned to the county auditor from whom received.

§ 21. IN CASE OF DISABILITY OF ELECTOR.] Any voter who declares to the judges of election, or when it shall appear to the judges of election that he cannot read, or that by blindness or other physical disability he is unable to mark his ballot, shall, upon request, receive the assistance of two of the election officers in the marking thereof, who shall be chosen from different political parties, and such officers shall certify on the outside thereof that it has been so marked with their assistance, and shall thereafter give no information regarding the same. The judges may, in their discretion, require such declaration of disability to be made by the voter under oath before them, and they are hereby qualified to administer the same. No elector other than one who may because of his inability to read, or physical disability, be unable to mark his ballot, shall divulge to any one within the polling place the name of any candidate for whom he intends to vote, or to ask or receive the assistance of any person within the polling place in the preparation of his ballot.

§ 28. PENALTY FOR CASTING ILLEGAL BALLOT.] No inspector or judge of election shall deposit in any ballot box any ballot upon which the official stamp, as hereinbefore provided for, does not appear. Every person violating the provisions of this act shall be deemed guilty of a misdemeanor.

§ 29. INSTRUCTION TO ELECTORS.] The auditor of each county shall cause to be printed in large type, on cards, in English, instructions for the guidance of electors in preparing their ballots. He shall furnish ten such cards to the judges of election in each election precinct, and one additional card for each fifty electors or fractional part thereof in the precinct, at the same time and in the same manner as the printed ballots. The judges of election shall post not less than one of such cards in each place or compartment provided for the preparation of bal-

lots, and not less than three of such cards elsewhere in and about the following [polling] places upon the day of election. Said cards shall be printed in large, clear type, and shall contain full instructions to the voters as to what should be done, viz.: First, to obtain ballots for voting; second, to prepare the ballots for deposit in the ballot boxes; third, to obtain a new ballot in the place of one spoiled by accident or mistake. Said card shall contain a copy of Sections 31, 32, 33 and 34 of this act. There shall also be posted in each of the apartments or booths one of the official tickets without the official stamp hereinbefore provided for, and not less than three such tickets posted elsewhere in and about the polling places upon the day of election.

§ 30. **BALLOTS, WHEN VOID.**] In the canvas of the votes, any ballot which is not endorsed, as provided in this act, by the official stamp and initials, shall be void and shall not be counted, and any ballot or parts of a ballot from which it is impossible to determine the elector's choice, shall be void and shall not be counted; *Provided*, That when a ballot is sufficiently plain to gather therefrom a part of the voter's intention, it shall be the duty of the judges of election to count such part.

§ 31. **PENALTY FOR DESTROYING OR DEFACING CERTIFICATES OR BALLOTS.**] Any person who shall falsely make, or make oath to or fraudulently deface, or fraudulently destroy any certificate of nomination, or any part thereof, or file or receive for filing any certificate of nomination, knowing the same or any part thereof to be falsely made, or suppress any certificate of nomination which has been duly filed, or any part thereof, or forge or falsely make the official endorsement on any ballot, or willfully neglect to properly endorse said ballot, shall be deemed guilty of a felony, and upon conviction thereof, in any court of competent jurisdiction, shall be punished by imprisonment in the penitentiary for a period of not less than one year nor more than five years.

§ 32. **PENALTY FOR DESTRUCTION OF ELECTION MACHINERY OF ANY KIND.**] Any person who shall, during the election, willfully remove or destroy any of the supplies or other conveniences placed in the booths or compartments for the purpose of enabling the voter to prepare his ballot, or prior to or on the day of election willfully deface or destroy any list of candidates posted in accordance with the provisions of this act, or copy of printed ticket, or who shall, during an election, tear down or deface the cards printed for the instruction of voters, shall be deemed guilty of a misdemeanor, and upon conviction thereof, in any court of competent jurisdiction, shall be fined in any sum not exceeding one hundred (100) dollars.

§ 33. **PENALTY FOR FAILURE PUBLIC OFFICER TO ATTEND TO DUTIES PRESCRIBED.**] Any public officer upon whom any duty is imposed by this act, who shall willfully do or perform any act or thing herein prohibited, or willfully neglects or omits to perform any duty as imposed upon him by the provisions of this act, shall

be deemed guilty of a misdemeanor, and upon conviction thereof shall forfeit his office and shall be punished by imprisonment in the county jail for a term of not less than one month nor more than six months, or by a fine of not less than fifty (50) dollars and not more than five hundred (500) dollars, or by both such fine and imprisonment.

§ 34. ELECTIONEERING PROHIBITED—SECRET BALLOT.] No officer of election shall do any electioneering on election day. No person shall do any electioneering on election day within polling place or any building in which an election is being held, or within fifty feet thereof, nor obstruct the doors or entrance thereto, or prevent free ingress to and egress from said building. And the inspector and judges of election, shall, if they deem it necessary, appoint an election officer; such election officer, sheriff, constable, or other peace officer, is hereby authorized and empowered, and it is hereby made his duty to clear the passageway and prevent such obstruction and to arrest any person creating such obstruction. No person shall remove any ballot from the polling place before the closing of the polls. No person shall show his ballot after it is marked to any person in such a way as to reveal the contents thereof, or the name of any candidate or candidates for whom he has marked his vote, nor shall any person solicit the elector to show the same; nor shall any person except a judge of election receive from any elector a ballot prepared for voting. No elector shall receive a ballot from any other person than one of the judges of election having charge of the ballots, nor shall any person other than such inspector or judges of election deliver a ballot to such elector. No elector shall vote or offer to vote any ballot except such as he has received from the judges of election having charge of the ballots. No elector shall place any mark upon his ballot by which it may afterwards be identified as the one voted by him. Any elector who does not vote a ballot delivered to him by the judges of election having charge of the ballots shall, before leaving the polling place, return such ballot to such judges. Whoever shall violate any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof, in any court of competent jurisdiction, shall be fined in any sum not exceeding one hundred (100) dollars, and adjudged to pay the costs of prosecution.

§ 35. CANVASS.] As soon as the poll of the election shall be finally closed, the inspectors shall proceed immediately to canvass publicly, in the presence of all persons desiring to attend the same, the votes received at such poll, and continue without adjournment until the canvass is completed, and the statements hereinafter required are made. They shall commence by a comparison of the poll lists, and the correction of any mistakes herein, until they shall be found or made to agree. The box shall then be opened and the ballots therein taken out and counted by the inspectors, unopened, except so far as to ascertain

whether each ballot is single; and if two or more ballots be found so folded together as to present the appearance of a single ballot, they shall be laid aside until the count of the ballot is completed; and if, upon a comparison of the count and the appearance of such ballot, a majority of the inspectors shall be of the opinion that the ballots thus folded together were voted by one elector, they shall be destroyed. If the ballots in the box shall be found to exceed in number, after any such ballots folded together are destroyed, the whole number of votes on the poll lists, they shall be replaced in the box, and one of the inspectors shall publicly draw therefrom by chance, and without examination thereof, and destroy so many ballots unopened as shall be equal to such excess. The number of ballots agreeing, or so as aforesaid being made to agree, with the poll lists, the inspectors shall then proceed to open and count and ascertain the number of votes.

§ 36. RESULT OF CANVASS TO BE ANNOUNCED.] The canvass being completed, the inspectors shall then publicly announce the result thereof, specifying the whole number of votes cast for each office and each person to fill the same respectively, and for and against each proposition voted for at such election, and shall immediately draw up a statement in writing thereof, in duplicate, setting forth therein, in words at length and in figures, the whole number of votes given for each office at such election, the names of all the persons for whom such votes were given, as shown upon the ballots, and the number of votes so given for each person, and the number of votes given for and against each proposition voted for, if any at such election, which statements they shall certify to be correct, and subscribe with their names.

§ 37. RETURNS, HOW AND WHERE MADE—COMPENSATION OF OFFICERS.] The inspector of election, or one of the judges appointed by him, shall forthwith deliver to the clerk of the town, city or village, one of said statements and one of said poll lists, together with the stamp, to be filed and preserved in his office, and shall with all convenient dispatch and within three days after the election deliver the other statement to the auditor, it having been by the judges carefully sealed up, together with the other poll list with the oaths of inspectors and clerks affixed, under cover, properly directed to the auditor, and the person delivering such returns to the auditor shall be entitled to receive as compensation therefor the sum of two (2) dollars, and mileage at the rate of five (5) cents per mile for each mile necessarily traveled in going to and returning from such auditor's office, to be paid out of the county treasury, on the warrant of the auditor. The inspector of elections shall lock the ballot box after the ballots have been replaced therein in the presence of all the judges, and shall send the key properly labelled with the name and number of the polling precinct, at the same time as he returns the poll books and statements, to the county auditor, but shall retain, in safe custody, the ballot box used at the election, sealed,

with all the ballots cast at the same, replaced therein, during sixty days next after election. And it shall be his duty to cause the said box to be safely delivered to the county auditor upon the written request of the board of canvassers at any time during said sixty days. In organized townships, within thirty days after said date, or in cities or villages, the inspector of elections shall deliver, if he be not himself the officer in question, the boxes to the chairman of the board of supervisors of the civil township, or mayor of the city, or president of the village, in which the election precinct is situated, as the case may be; and this officer shall keep in safe custody the said boxes until the next election or hand them over to his successor in office to be by him safely kept until such time. At the following general election it shall be the duty of these officers to hand the ballot boxes over to the inspector of elections, and in the case that they have lost or destroyed them, then they shall replace them each at his own cost. In unorganized townships the inspectors of elections shall cause the ballot boxes to be safely delivered to the county auditor, between the sixtieth and ninetieth day following the election. And the same compensation shall be allowed for such delivery as is allowed in this section of this act for returning the poll book and statement to the auditor.

§ 38. PURCHASE AND SUPPLY OF BALLOT BOXES A COUNTY CHARGE.] For the first election held under the provisions of this act, the purchase and supplying of the ballot boxes shall be a county charge, and it shall be the duty of the county auditor to send said ballot boxes to the different precincts, at the same time that he delivers or causes to be delivered the official ballots and poll books. And at all elections subsequent he shall cause the keys of the different boxes to be delivered to the different precincts at a like time and manner.

§ 39. LAW TO BE PRINTED.] It shall be the duty of the Secretary of State to cause to be published, in pamphlet form, and distributed through the auditors of the respective counties, a sufficient number of copies of this law, and such other laws as bear upon the subject of election, as will place a copy thereof in the hands of all officers of election.

§ 40. WHEN POLLS OPEN.] At all elections held under the provisions of this act, the polls shall be opened at 8 o'clock a. m. and closed at 5 o'clock p. m. Twenty minutes prior to 5 o'clock p. m. the inspector shall proclaim to the electors outside the number of minutes before the polls will be closed and that such closing will be precisely at 5 o'clock p. m.

§ 41. REPEAL.] All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

Approved March 7, 1891.

EXEMPTIONS.

CHAPTER 67.

[S. B. No. 166.]

DEFINING AND LIMITING THE HOMESTEAD EXEMPTIONS.

AN ACT Entitled An Act to Define and Limit the Homestead Exemption, Limiting the Value Thereof, Providing a Method of Claiming and Obtaining the Same, Regulating the Disposition, Conveyance and Incumbrance Thereof, and the Disposition, Conveyance and Re-incumbrance of the Same in Case of Insanity of Husband or Wife.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. HOMESTEAD EXEMPT.] A homestead owned by either husband or wife, not exceeding in value \$5,000, consisting of a dwelling house in which the homestead claimant resides, and all its appurtenances, and the land on which the same is situated, shall be exempt from judgment lien and from execution or forced sale, except as provided in this chapter.

§ 2. HOMESTEAD, HOW SELECTED.] If the homestead claimant be married, the homestead may be selected from the separate property of the husband, or with the consent of the wife from her separate property. When the homestead claimant is not married, but is the head of the family within the meaning of Section 15 of this act, the homestead may be selected from any of his or her property; *Provided*, That the homestead so selected must in no case embrace different lots or tracts of land unless they are contiguous.

§ 3. HOMESTEAD, WHEN SUBJECT TO EXECUTION.] The homestead is subject to execution or forced sale in satisfaction of judgments obtained:

First. On debts secured by mechanics' or laborers' liens for work or labor done, or material furnished exclusively for the improvement of the same.

Second. On debts secured by mortgage on the premises, executed and acknowledged by both husband and wife, or an unmarried claimant.

Third. On debts created for the purchase thereof, and for all taxes accruing and levied thereon.

§ 4. ACKNOWLEDGEMENT OF HUSBAND AND WIFE.] The homestead of a married person cannot be conveyed or incumbered un-

less the instrument by which it is conveyed or incumbered is executed and acknowledged by both husband and wife.

§ 5. WHEN HOMESTEAD APPRAISED.] When an execution, for the enforcement of a judgment obtained in a case not within the classes enumerated in Section 3, is levied upon the land and tenements of a head of a family, such head of a family may notify the officer at the time of making the levy of what he regards as his homestead, with the description thereof, or whenever an execution has been issued against the property of the head of a family known to or believed by the judgment creditor to be the homestead of the defendant in judgment, and the judgment creditor believing said homestead to exceed in value the sum of \$5,000, may in either case apply to the district court in the county in which said homestead is situated for the appointment of persons to appraise the value thereof.

§ 6. APPLICATION FOR APPRAISERS.] The application for appraisers must be a verified petition showing:

1. The fact that an execution has been levied upon or issued against property which has been claimed, or is believed to be the homestead of the judgment debtor, describing the same.

2. The name of the claimant.

3. That the value of the homestead exceeds the amount of the homestead exemption.

§ 7. PETITION FILED.] The petition must be filed with the clerk of the district court and a copy thereof, with notice of the time and place of hearing, be served on the claimant at least ten days before the hearing.

§ 8. APPRAISERS, HOW APPOINTED.] At the hearing the court, in his discretion, upon proof of the service of such notice and petition and of the fact stated in the petition, shall appoint three disinterested residents of the county to appraise the value of the homestead, who must take an oath impartially to appraise the same. They must view the premises and appraise the value thereof, and if the appraised value exceeds the homestead exemptions they must determine whether the land claimed can be divided without material injury.

§ 9. HOMESTEAD, HOW DIVIDED.] If, from the appraiser's report, it appears that the land claimed as a homestead can be divided without material injury, the court shall, by an order, direct the appraisers to set off to the claimant so much of the land, including residence, as will amount in value to the homestead exemption, and the execution may be enforced against the remainder of the land.

§ 10. WHEN HOMESTEAD TO BE SOLD.] If, from the appraiser's report, it appears to the court that the land claimed as a homestead exceeds in value the amount of the homestead exemption and that it cannot be divided without material injury, he must make an order directing its sale under the execution; but at

such sale no bid must be received unless it exceeds the amount of the homestead exemption.

§ 11. PROCEEDS OF SALE.] If the sale is made, the proceeds thereof to the amount of the homestead exemption must be paid to the claimant and the residue applied to the satisfaction of the execution; *Provided*, That when the execution is against the husband, whose wife is living, the court may, in his discretion, direct the \$5,000 to be deposited in court, to be paid out only on the joint receipt of the husband and wife, and it shall, whether paid directly to claimant, or to husband and wife jointly, possess all the protection against legal process and of voluntary disposition of the husband as did the original homestead premises.

§ 12. FEES OF APPRAISERS.] The appraisers shall receive the same fees as jurors in civil cases in the district court which, with all other costs of these proceedings, must be paid by the execution creditor in the first instance, but in the cases provided for in Sections 10 and 11 of this act the amount paid must be added as costs on execution and collected accordingly.

§ 13. PROCEEDS OF SALE EXEMPT.] If the homestead be conveyed by the claimant as provided in Section 4 of this act, or sold for the satisfaction of any lien mentioned in Section 3 of this act, the proceeds of the sale, beyond the amount necessary to satisfy such lien and not exceeding the amount of the homestead exemption shall be entitled thereafter to the same protection against legal process and voluntary disposition of the claimant which the law gives to the homestead.

§ 14. EFFECT OF SALE OF HOMESTEAD.] The sale and disposition of one homestead shall not be held to prevent the selection or purchase of another, as provided in this act.

§ 15. HEAD OF FAMILY.] The phrase "head of a family," as used in this act, includes within its meaning:

First. The husband or wife when the claimant is a married person; but in no case are both husband and wife entitled each to a homestead under the provisions of this act.

Second. Every person who has residing on the premises with him or her, and under his or her care and maintenance, either.

1. His or her minor child, or the minor child of his or her deceased wife or husband.

2. A minor brother or sister, or the minor child of a deceased brother or sister.

3. A father, mother, grandfather or grandmother.

4. The father or mother, grandfather or grandmother of a deceased husband or wife.

5. An unmarried sister or any other of the relatives mentioned in this section who have attained the age of majority and are unable to take care of or support themselves.

§ 16. IN CASE OF DEATH OF HUSBAND OR WIFE.] Upon the death of either husband or wife, the survivor may continue to possess and occupy the whole homestead until it is otherwise dis-

posed of according to law; and upon the death of both husband and wife the children may continue to possess and occupy the whole homestead until the youngest child becomes of age.

§ 17. HOMESTEAD DESCEND, HOW.] Such homestead shall descend according to the laws of succession as now provided for by the Civil Code, unless otherwise directed by or disposed of by will, and shall be held exempt from any antecedent debt of the parent and of the devisor in the cases hereinafter mentioned, and if it descend to the issue of either husband or wife or to any person or persons mentioned in Section 16 of this act, by will or otherwise, it shall be held by such issue, person or persons, devisee or devisees, exempt from such debts of such husband or wife, or devisor, except as provided by Section 3 of this act; but in all other cases the homestead shall be liable to be sold for the payment of any debts to which it might at that time be subjected if it had never been held as a homestead.

§ 18. WHEN HOMESTEAD MAY BE DEVISED.] Subject to the rights of the husband or wife as declared by law, the homestead may be devised like other real property of the testator.

§ 19. IN CASE OWNER IS INSANE.] If the husband or wife of any owner of a homestead shall be insane, and such owner shall desire to convey such homestead, or any interest therein, he may petition the county court of the county in which such homestead may be situated for license to convey the same, and such court, upon reasonable and not less than twenty days' notice of such petition to the kindred of such insane wife or husband residing in this state (which notice may be personal or by publication in some newspaper in the county, or directed by the court), may hear and determine such petition, and may license such owner to convey such homestead, or any interest therein, by his sole deed; which license shall be recorded in the office of register of Deeds for such county, and thereupon such sole deed shall have the same operation as if such husband or wife had been sane and had joined in such deed.

§ 20. DUTY OF COURT.] Before granting such license the court must be satisfied: (1) That it is for the best interests of all parties concerned that the homestead be sold; (2) that the sum to be received for the sale of such homestead be equal to the value of the same, and to that end the court may subpoena such persons as he may desire to appear before him and testify under oath relative to the value of such homestead. Such witnesses shall be entitled to the same fees as provided in Section 13 of this act to be paid to appraisers, which fees shall be paid by the petitioner.

§ 21. COURT MAY DIRECT USE OF FUNDS.] On granting such license, the court may make a special order directing that a part of the funds derived from such conveyance, not to exceed one-third thereof, be set aside, and he may direct its investment, for the use and benefit of the insane husband or wife. If said hus-

band or wife die while insane, the sum so set aside reverts to the sorrowing [surviving] husband or wife. If he or she be dead at the time the insane husband or wife dies then such sum shall descend agreeably to the laws of succession, as provided by the Civil Code.

§ 22. APPEAL FROM DECISION OF COURT.] On hearing such petition for license, any of the kindred of the insane person may appear and be heard in the premises, and may appeal from any order made on the subject to the district court for the district in which the land is situated, in the same manner provided for appeals in other cases.

§ 23. IN CASE OF INCUMBRANCE.] If the husband or wife of any owner of a homestead shall be insane, and there shall exist upon such homestead a mortgage or other incumbrance which becomes due during the insanity of either the husband or wife, and the owner desires to extend or renew such incumbrance, or to re-incumber such homestead or any part thereof, he may petition the county court of the county in which such homestead is situated, setting forth in such petition: The insanity of the husband or wife, the description of the homestead and of the incumbrance thereon, that it is due, that it is impracticable for him or her to pay the same, and that he or she desires to extend or renew such incumbrance or re-incumber the homestead; whereupon the court shall issue an order directing the husband or wife to execute the extension, renewal or re-incumbrance by his or her sole instrument, which order shall be recorded in the office of the register of deeds in and for the county in which the homestead is situated, and thereupon such sole instrument shall have the same operation as if such husband or wife had been sane and had joined in such instrument; *Provided*, That in no case shall the extension, renewal or re-incumbrance be for a greater amount than the principal sum of the incumbrance existing upon the homestead at the time such order was issued.

§ 24. REPEAL.] All acts and parts of acts in conflict with the provisions of this act, and especially Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 15, 16, 17, 18 and 19 of Chapter 38 of the Revised Code of 1877, be and the same are hereby repealed.

Approved March 9, 1891.

FEES.

CHAPTER 68.

[H. B. No. 129.]

FEES OF CLERKS OF DISTRICT COURTS.

AN ACT Entitled, "An Act to Regulate the Fees of Clerks of the District Courts of the State of North Dakota."

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. FEES PRESCRIBED.] The clerks of the district court shall be entitled to charge for their services the following fees, and none other:

For entering any judgment, 20 cents for each judgment debtor and indexing cause.

For filing any plea or other paper, 10 cents.

For entering case on term calendar, 25 cents.

For entering each cause on Judge's docket and indexing, 15 cents.

For taxing costs in any cause, 50 cents. Certificates of same, 25 cents.

For issuing a summons, 50 cents.

For issuing a subpoena, 50 cents.

For swearing jury in civil causes, 50 cents.

For swearing a witness in criminal jury, 10 cents for each person sworn.

For docketing any judgment, \$1.

For drawing petit jury and issuing venire, \$3.

For drawing grand jury and issuing venire, \$2.

For issuing any special venire for jurors, \$1.

For issuing execution in any case, \$1.

For issuing execution in decree of foreclosure, \$2.

For issuing bench warrant, \$1.

For issuing any attachment, \$1.

For administering oaths, 10 cents.

For declaration to become a citizen, including one certified copy of record, \$1.50.

For final naturalization papers, including certified copy, \$2.

For each additional copy of either, \$1.

For making record and certificate of admission, attorneys, \$2.

For entering and indexing mechanic's lien, 75 cents.

- For entering discharge of mechanic's lien, 50 cents.
For making certified transcript of any judgment, \$1.
For entering discharge or satisfaction of judgment, 50 cents.
For approving security for costs in any cause, 50 cents.
For approving any bond, 50 cents.
For entering and indexing notary commission, \$1.
For registering any bond, 50 cents.
For issuing capias, \$1.
For entering and indexing indictments or presentment, \$1.
For certifying depositions to file, 10 cents.
For taking any acknowledgment, 25 cents.
For affixing the seal of the court to any instrument, 25 cents.
For issuing any certificate with seal, 25 cents.
For recording any rule, order, continuance, judgment, decree, recognizance, drawing any bond, making any record, return on report or copy of an entry of record or of any paper on file, each folio, 15 cents.
For issuing commitment, \$1.
For each day's attendance upon court, when actually in session, \$5.
For every search for any particular judgment, or other lien, constituting a general lien upon real estate and certifying the result of such search, for each person therein named, 20 cents.
For receiving, keeping and paying out money in pursuance of any statute or order of court, 1 per centum on the amount so received, to be paid by party receiving the moneys.
For entering and recording a final judgment, when the same does not exceed four folios, \$1. For each additional folio, 10 cents.
For entering a continuance in every action, where the same has been placed on trial calendar, 50 cents.
For receiving and entering verdicts of jury, 50 cents.
For issuing commission to take deposition, \$1.
For all other services required by law to be performed by such clerks, respectively, such fees as may be allowed by the court.
For completing dockets and indexing causes, when issue is joined and testimony given, \$2.
For docketing and indexing any case on register of action for one defendant, \$1.
For each additional defendant, 10 cents.
§ 2. REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed.
Approved March 7, 1891.

GAME.

CHAPTER 69.

[H. B. No. 49.]

FOR PROTECTION OF SMALL GAME.

AN ACT for the Protection of Game.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 2, of Chapter 58 of the Laws of 1887, being Section 2366 of the Compiled Laws, be amended to read as follows:

§ 2. UNLAWFUL TO KILL AT CERTAIN TIMES.] It shall be unlawful for any person to shoot, trap, snare or kill any prairie chickens or pinnated grouse or sharp tail grouse, or ruffled grouse, or wild duck between the 1st day of December and the 20th day of August of the year following or any song bird at any time, or to hunt upon the enclosed or cultivated premises of another, except uncultivated lands of non-residents of this State without consent of the owner, tenant or agent thereof; *Provided, however,* That the owner, tenant or agent of such premises shall first post and maintain in at least two conspicuous places, notices signed by such owner, tenant or agent of such prohibition on each highway running by and contiguous to such premises and one such notice in a conspicuous place on each quarter section, owned or controlled by the party prohibiting such shooting; such notices to be on that part of the premises most likely to give warning to hunters not entering such premises by the highway, such notices to be fastened to stakes driven into the earth, and shall be at least three feet above the ground and shall be legible at all times.

§ 2. AMENDMENT.] That Section 6 of Chapter 58 of the Laws of 1887, being Section 2370 Compiled Laws, be amended to read as follows:

§ 6. PENALTY.] If any person shall shoot, kill, take or trap, ensnare, buy, sell, ship or have in possession or ship, take or carry out of the State contrary to the provisions of this act, any of the birds named in this act or willfully destroy any nests or eggs of any bird named in this act or shall hunt upon the premises of another contrary to the provisions of this act or shall hunt upon the premises of another contrary to the provisions of Section 1 of this act, such person shall be punished by a fine of ten (10)

dollars for each bird shot or killed and ten dollars for each nest or eggs therein so destroyed, and ten (10) dollars for each time he shall hunt upon the premises of another contrary to the provisions of Section 1 of this act, and shall stand committed to the county jail unless such fine and the costs of the prosecution be sooner paid; *Provided*, That no prosecution under this act for hunting upon the premises of another shall be maintained except upon information furnished by the owner, tenant or agent of such premises.

§ 3. AMENDMENT.] That Section 2 of Chapter 59 of the laws of 1887, being Section 2375 Compiled Laws, be amended to read as follows:

Sec. 2. UNLAWFUL TO KILL QUAIL, WHEN.] It shall be unlawful for any person or persons to kill, trap or destroy, by any means whatever any quail in the State of North Dakota for a period of four years from and after the passage of this act.

§ 4. EMERGENCY.] That whenever in any of the game laws now in force in this State the words "Territory of Dakota" or "Dakota Territory" shall appear they shall be construed to mean State of North Dakota; an emergency existing in that there is now no law to prevent the destruction of quail in this State, now therefore this act shall take effect and be in force from and after the passage and approval of this act.

Approved March 6, 1891.

CHAPTER 70.

[S. B. No. 189.]

PROTECTION OF BIG GAME.

AN ACT to Amend Sections 1 and 2 of Chapter 63 of the General Laws of 1883.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 1 of Chapter 63 of the General Laws of 1883 be amended so as to read as follows:

Section 1. WHEN UNLAWFUL TO KILL ELK, DEER, AND OTHER GAME.] That it shall be unlawful for any person or persons to kill, ensnare or trap in any form or manner, or by any device whatever, or for any purpose, any buffalo, elk, deer, antelope or mountain sheep, between the 1st day of January and the 1st day of September of each and every year. And it shall be unlawful for any person or persons, at any time, to use or employ any hound or dogs of any kind in running or driving any buffalo, elk, deer,

Sess. Laws 91—13

antelope or mountain sheep, or to set any gun or guns or gun trap to be discharged upon or by, any buffalo, elk, deer, antelope or mountain sheep as driven or pursued in any manner whatever.

§ 1. AMENDMENT.] That Section 2 of Chapter 63 of the General Laws of 1883 shall be amended so as to read as follows:

Sec. 2. PENALTY FOR VIOLATING SECTION ONE.] Any person or persons who shall violate any of the provisions of Section 1 of this act shall be considered guilty of a misdemeanor, and, upon conviction thereof, shall be fined for each buffalo, elk, deer, antelope or mountain sheep so killed and found in his, her or their possession, between the 1st day of January and the 1st day of September in each year, the sum of one hundred (100) dollars; and any person or persons who shall set any gun or guns or any gun trap or use any hound or dogs in the manner set forth in Section 1 of this act, upon conviction thereof, shall be fined the sum of one hundred (100) dollars and sentenced to not more than ninety days or less than thirty days in the county jail.

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

Approved March 7, 1891.

CHAPTER 71.

[H. B. No. 22.]

WOLF BOUNTY.

AN ACT to Amend Section 1, of Chapter 157, of the Laws of 1890, Entitled "Bounty for Wolf Scalps."

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 1 of Chapter 157 of the Laws of 1890 be amended to read as follows:

Section 1. BOUNTY FOR WOLF SCALPS.] The county commissioners of each county in the State of North Dakota shall, upon the petition of twenty-five stock raisers, offer a bounty not to exceed three (3) dollars and not less than one (1) dollar for each and every wolf or coyote killed within the limits of their county.

Approved March 11, 1891.

IMMIGRATION.

CHAPTER 72.

[H. B. No. 204.]

AUTHORIZING COUNTIES TO LEVY SPECIAL TAX TO ENCOURAGE IMMIGRATION.

AN ACT Authorizing Counties to Raise and Expend a Fund for the Purpose
of Encouraging Immigration.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. SPECIAL TAX LEVY.] The county commissioners of any county in this state are hereby authorized, at the time fixed by law for the levying and assessment of taxes, to levy a tax, not exceeding one-fourth of one mill on the dollar, upon the assessed valuation of all the property in the county upon presentation of a petition signed by one-third of the legal voters of the county taking the total vote of the last general election for a basis, the proceeds of which shall be used solely for the purpose of promoting and assisting immigration into this state.

§ 2. FUND DENOMINATED.] The funds provided to be raised in accordance with Section 1 of this act shall be denominated the "immigration fund" and shall be kept separate and distinct by the county treasurer, and shall be expended by and under the direction and control of the county commissioners at such time and in such manner as is by said commissioners deemed best, for the purpose of securing immigration into this state.

§ 3. REPEAL.] All acts or parts of acts conflicting with the provisions of this act are hereby repealed.

Approved March 12, 1891.

INSURANCE.

CHAPTER 73.

[H. B. No. 64.]

PROVIDING FOR THE INCORPORATION OF LIFE AND CASUALTY INSURANCE COMPANIES.

AN ACT to Provide for the Incorporation and Regulation of Life and Casualty Insurance Companies, Corporations or Societies, Other than Co-operative or Assessment Life and Casualty Association or Societies.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. WHO MAY FORM INCORPORATION.] Any number of persons not less than seven may organize an incorporate company to make insurance upon the lives of persons and every insurance pertaining thereto, and against accidental injuries, including the granting, purchasing and paying of annuities and indemnities.

§ 2. CAPITAL REQUIRED, AND HOW INVESTED.] That before any company, corporation or society shall commence business of life or accident of whatsoever kind of insurance pertaining thereto, or any company, corporation or society other than co-operative or assessment companies, association or societies, in this State or elsewhere, and no other life or accident insurance company, corporation or society, other than co-operative or assessment companies, corporations or societies organized under the laws of any other state or territory of the United States or foreign government, shall do business in this State. Such company, corporation or society as aforesaid shall have a capital stock of at least \$100,000, or in lieu thereof has actual assets to the amount of at least \$100,000, invested in stocks or bonds of the United States or state securities, or such other stocks and securities as may be approved by the Commissioner of Insurance, or mortgages on unincumbered real estate, bearing at least 5 per cent. per annum, situated in the State where such company is located, and must be worth at least double the amount of such mortgage securities exclusive of improvements. Such securities must be shown to be deposited in the hands of the proper state officers and certified to the Commissioner of Insurance of this State by the insurance officer of the state in which such deposit is made; *Provided, however,* That in case any

company, corporation or society (other than co-operative or assessment) organized under the laws of any foreign government, shall have a deposit of at least \$100,000 in some state of the United States for the benefit of all its policy holders in the United States, then it shall be deemed sufficient security when certificate from the company and signed by the officer holding such security is deposited with the Commissioner of Insurance of this State.

§ 3. CORPORATORS MUST FILE DECLARATION WITH COMMISSIONER AND PUBLISH SAME.] The persons proposing to organize shall be designated as corporators, and they shall file with the Commissioner of Insurance a declaration signed by each of the corporators, setting forth their intentions to form a company for the purpose of conducting the business of life and accident insurance named in this act, which declaration shall comprise a copy of the charter they propose to adopt, and shall be published at least once a week, for four consecutive weeks, in a newspaper in the county in which the company is organized. The said charter shall set forth the name of the company, the place where it is to be located, the mode and manner in which the corporate powers of the company are to be exercised, the manner of electing the trustees or directors, a majority of whom shall be citizens of this State at the time of such election; the manner of filling vacancies; the amount of capital stock; and such other particulars as may be necessary to explain and make manifest the object and purpose of the company and the manner in which it is to be conducted. On the filing of such declaration as aforesaid, the Commissioner of Insurance shall submit the same to the Attorney General for examination, and, if found by him to be in accordance with the provisions of this act and not inconsistent with the laws and Constitution of this State, and of the United States, he shall certify to the same and deliver it back to the Commissioner of Insurance, who shall cause said declaration, with the certificate of the Attorney General, to be recorded in a book to be kept for that purpose, and he shall furnish a certified copy of such declaration and certificate to the corporations.

§ 4. WHEN SUBSCRIPTION BOOKS MAY BE OPENED.] Whenever the corporators who shall have received from the Commissioner of Insurance such certified copy, and shall have published the same in a newspaper published in the county in which such insurance company, corporation or society is proposed to be located, they may open books to receive subscriptions to the capital stock, and shall keep such books open until the amount required is subscribed, and then shall proceed to complete the organization.

§ 5. WHEN POLICIES MAY BE ISSUED.] No policy shall be issued until a certificate from the Commissioner of Insurance has been obtained authorizing such company to issue policies. The said Commissioner of Insurance

or some person appointed by him shall examine the company, corporation or society, and if by such examination the said Commissioner of Insurance or person so appointed shall find that the capital stock has been subscribed and the provisions of this act have been complied with, he shall issue or cause to be issued a certificate authorizing said corporators to issue policies. Every such company, corporation or society incorporated in this State shall pay the Commissioner of Insurance or the person so appointed for said examination all necessary expenses incurred therein.

§ 6. BY-LAWS, HOW MADE, LIABILITIES OF STOCKHOLDERS.] The corporators or trustees or directors as the case may be of any company, corporation or society organized under this act shall have power to make such by-laws not inconsistent with the Constitution of this State or of the United States as may be deemed necessary for the government of its officers and the conduct of its affairs, and the same whenever necessary to be altered and amended; and they and their successors may have a common seal and may change and alter the same at their pleasure, and such companies, corporations or societies in its corporate name may sue and be sued, may own so much real and personal property as shall be necessary for the transaction of its business, and may sell and dispose of the same when deemed necessary. Each stockholder of any company, corporation or society organized under this act shall in his individual capacity be severally liable for the debts of such company, corporation or society only to the amount of his unpaid stock.

§ 7. WHEN INSURANCE MAY BE SOLICITED.] It shall not be lawful for any person to act within this State as agent or otherwise in receiving or procuring applications for life insurance of whatsoever kind, or in any manner to aid in transacting the business referred to in the second section of this act, for any company, corporation or society incorporated by or organized under the laws of any other state, territory or foreign government unless such company has conformed in such state, territory or foreign government or in this State to the same requirements in regard to capital that are imposed by Section 2 of this act upon companies, corporations or societies in this State to the amount of at least \$100,000, invested in bonds and such other securities as set forth in Section 2 of this act, and shall be satisfactory to the Commissioner of Insurance in the State where said company, corporation or society is organized and certified to the Commissioner of Insurance of this State.

§ 8. REPORTS, WHEN AND HOW MADE.] Every life insurance company, corporation or society of whatsoever kind incorporated in this State, or doing business in this State shall, on or before the 1st day of March in each year, transmit to the Commissioner of Insurance and file in his office a statement of its business standing and affairs in the form prescribed or authorized by law and adapted to the business done by such companies, corpora-

tions or societies, signed and sworn to by the president or vice-president and secretary and made out for the year ending on the preceding 31st day of December.

§ 9. FORM OF STATEMENTS.] The form of annual statement for life and accident insurance companies, corporations and societies shall be the standard form adopted by the national insurance convention, or such form as the Commissioner of Insurance may choose. Such form shall be condensed as the Commissioner of Insurance shall deem expedient so to do, and shall be published the same as fire insurance companies doing business in this State.

§ 10. FOREIGN COMPANIES TO MAKE STATEMENTS WHEN.] All life and accident companies, corporations or societies chartered or organized in any other state of the United States or beyond the limits of the United States, and doing business in this State, shall make an annual statement of their condition and affairs to the Insurance Department in the same manner and in the same form as similar companies, corporations or societies organized under the laws of this State.

§ 11. PENALTY FOR FALSE STATEMENTS.] Any life or accident company, corporation or society organized under the laws of this State or in the United States or any foreign country must transmit to the Commissioner of Insurance a statement of its condition and business for the year ending on the preceding 31st day of December, which shall be rendered on the 1st day of March in each year, and every company, corporation or society that shall willfully make false statement shall be liable to a fine of not less than five hundred (500) dollars nor more than \$1,000, and any new business done by any company, corporation or society or its agents in this State after neglect to make the prescribed return, shall be deemed to be done in violation of the law.

§ 12. COMMISSIONER MUST ASCERTAIN NET CASH VALUE OF POLICIES IN FORCE.] The Commissioner of Insurance shall, at the expense of the company, as soon as practicable after statements are filed, proceed to ascertain the net cash value of all policies in force. The Commissioner of Insurance of this State may, however, accept such valuation from the proper officer of the company or the insurance officer of the state of which said company is located, should he deem it expedient so to do. When the actual funds of any life or accident company, corporation or society doing business in this State are not of a net value equal to the net value of its policies, according to the "combined experience" or "actuaries" rate of mortality, with interest at 4 per cent. per annum, it shall be the duty of the Commissioner of Insurance to give notice to such company, corporation or society and its agents to discontinue issuing new policies within this State until such times as its funds have become equal to its liabilities, valuing its policies as aforesaid. Any officer or agent, who, after such notice has been given, issues or delivers a new policy from and in behalf of such company, corporation or society before its funds have become equal

to its liabilities as aforesaid, shall forfeit for each offense the sum not to exceed \$1,000.

§ 13. HOW FUNDS MAY BE INVESTED.] It shall be lawful for any life or accident company, corporation or society organized in this State to invest its funds or accumulations in the stocks or bonds of the United States or of this State, or of any city or town in this State, or in any national bank, or in such other stocks and securities as may be approved by the Commissioner of Insurance, or in mortgages being first liens upon real estate worth at least twice the amount of money loaned thereon, or in real estate and buildings necessary in carrying on their business.

§ 14. FUNDS IN OTHER STATES.] When any life and accident insurance company, organized in this State, shall transact business in any other State, it may invest its surplus funds in such State in like securities and the same restrictions as in this State.

§ 15. COMMISSIONER MAY INQUIRE INTO CONDITION OF CORPORATIONS.] The Commissioner of Insurance is hereby authorized and empowered to address any inquiries to any life or accident insurance company, corporation or society, or to the secretary thereof, in relation to its doings or conditions, or any other matter connected with its transactions, and it shall be the duty of any such company, corporation or society so addressed to reply promptly in writing to any such inquiries; and all such companies, corporations or societies not incorporated under the laws of this State, failing to answer all such inquiries, shall not be authorized to transact any business in this State, and their certificate of authority may be revoked and cancelled.

§ 16. WHEN COMMISSIONER MUST EXAMINE AND HIS POWERS—HOW SECURITIES MAY BE CHANGED.] It shall be the duty of the Commissioner of Insurance, at any time he shall deem it necessary for the good of policy holders, to examine or cause to be examined by some competent person duly appointed by him, all insurance companies, corporations or societies doing business of insurance of whatsoever kind in this State, or that may make application so to do, and it shall be the duty of the officers or agents of any company, corporation or society doing business in this State or making application so to do, to cause their books to be opened for the inspection of the Commissioner of Insurance or the person so appointed, and to otherwise facilitate such examination so far as it may be in their power to do, and for that purpose the said Commissioner of Insurance, or person so appointed, shall have power to examine under oath the officers and agents of such companies relating to the business of said company, corporation or society. And if upon such examination the Commissioner of Insurance is of the opinion that the company is insolvent or its financial condition impaired to a degree that is dangerous to its policy holders he shall communicate the fact to the Attorney General, who shall at once

apply to a judge of the circuit court to issue an injunction restraining such company from doing business (except the payment of losses due and accepted by the company) until a full hearing can be had. Should the company so enjoined and found insolvent beyond their power of reparation it shall be the duty of the court to cause to be divided for the benefit of the policy holders in proportion to the last valuation of said policies or applied for reinsurance, the deposit held by the Commissioner of Insurance; Provided, That nothing in this act shall be construed to prevent insurance companies having such deposit in this State to change such securities for other securities that may be acceptable to the Commissioner of Insurance and the collection of interest thereon.

§ 17. COMMISSIONER TO BE APPOINTED AS ATTORNEY UPON WHOM PROCESS MAY BE SERVED.] Any insurance company, corporation or society not organized under the laws of this State shall not directly or indirectly take any risks or transact the business of insurance in this State until it shall first appoint in writing the Commissioner of Insurance of this State to be the true and lawful attorney of such company in and for this State, upon whom all lawful process in any action or proceeding against the company may be served with the same effect as if the company existed in this State. Said power of attorney shall stipulate and agree, on the part of the company, that any lawful process against the company which is served on said attorney shall be of the same legal force and validity as if served on the company, and that the authority shall continue in force so long as any liability remains outstanding against the company in this State. A certificate of such appointment, duly certified and authenticated, shall be filed in the office of the Commissioner of Insurance, and copies certified by him shall be received in evidence in all the courts of this State. Service upon such attorney shall be deemed sufficient service upon the company. Whenever lawful process against any insurance company doing business in this State shall be served upon the Commissioner of Insurance, he shall forthwith transmit a copy of said process served on him by mail, postpaid and directed to the secretary or president of the company. For each process so served the Commissioner of Insurance shall collect the sum of five dollars, which shall be paid by the plaintiff at the time of such service, the same to be recovered by him as part of the taxable costs if the suit prevails.

§ 18. INSURANCE, HOW PAYABLE.] It shall be lawful for any person to insure his or her life for those depending upon them for support for any definite period or for their natural life and in case they survive such time or period the sum or net amount of the insurance becoming due and payable by the terms of the insurance shall be payable to the benefactors, his, hers or them as the case may be, and for his, her or their own use, exempt from the claims of the representatives of or the creditors of the assured.

§ 19. RE-INSURANCE MAY BE EFFECTED.] All companies, corporations or societies organized under this act or organized under any law in this State before this becomes a law shall have power to effect re-insurance of any or all risks taken by them respectively.

§ 20. WHEN DEPOSITS AND SECURITIES IS REQUIRED IN OTHER STATES.] Whenever the existing or future laws of any other state of the United States or foreign country shall require of life and accident companies, corporations or societies of whatever kind, incorporated by or organized under the laws of this State, or of the agent thereof any deposits of securities in such state for the protection of policy holders or otherwise, or any payment for taxes, fines, penalties, certificate of authority, license, fees or otherwise greater than the amount required for such purposes from similar companies of other states by the then existing laws of this State, then and in every such case, all life or accident insurance companies of such states establishing, or having heretofore established, an agency or agencies in this State, shall be and are hereby required to make the same deposit, for a like purpose, with the State Treasurer of this State, and to pay to the Commissioner of Insurance an amount equal to the amount of such charges and payment imposed by the laws of such other states upon the companies of this State and the agents thereof.

§ 21. COPY OF CHARTER MUST BE FILED.] Every life and accident insurance company, corporation or society not organized under the laws of this State shall, before doing business in this State file with the Commissioner of Insurance a copy of the charter of the company, corporation or society, and a statement signed and sworn to by the president or vice president and secretary in the form prescribed or authorized for the annual statement adapted to the business done by such company, corporation or society.

§ 22. PENALTY FOR FAILURE TO TAKE OUT CERTIFICATE OF AGENCY.] Any person or persons soliciting life or accident insurance of whatsoever kind for any company, corporation or society organized under the laws of this or any other state in the United States or foreign government before he has received a certificate of authority to act as agent from the Commissioner of Insurance of this State, stating that such company, corporation or society has complied with this act, shall forfeit for each offense a sum not to exceed five hundred (500) dollars.

§ 23. FEES REQUIRED.] Every company, corporation or society, person or persons, or agents doing business in this State, to whom this act shall apply, shall be liable to the same fees and obligations as other insurance companies doing business in this State.

§ 24. HOW PENALTIES RECOVERED.] Every penalty provided for by this act shall be sued for and recovered in the name of the State by the states attorney in whose jurisdiction the company,

agent or agents so violating shall be doing business; and one-half of such penalties shall be paid, when recovered, into the treasury of said county, and the other half to the informer; and in case of the non-payment of such penalties, the party so offending shall be liable to imprisonment for a period not exceeding six months, in the discretion of any court having cognizance thereof.

§ 25. LIMIT OF ORGANIZATION.] All companies, corporations or societies incorporated under this act shall be for a period of not longer than ninety-nine (99) years.

§ 26. WHEN REPORTS TO BE MADE.] It shall be the duty of all receivers of insurance companies, on or before the 1st day of March of each year, and at any other time when required by the Commissioner of Insurance, to make and file annually their statements of their assets and liabilities, and of their incomes and expenditures, in the manner and form, and under the same penalties, as the officers of such companies are now required by law to make annual and other statements.

§ 27. TO WHAT COMPANIES APPLIED.] The provisions of this act shall apply to fidelity and surety companies doing business in this State, and to mutual life insurance companies so far as the valuation of its policies, the payment of fees and the necessary investment of \$100,000 of its assets for the protection of its policy holders therein concerned.

§ 28. WHO ARE DEEMED AGENTS.] Any person or firm in this State who shall receive or receipt for any money on account of or for any contract of insurance made by him or them or for any such insurance company or individual aforesaid, who will receive or receipt for any money from other persons to be transmitted to any such company or individual aforesaid for a policy or policies of insurance, of whatsoever class or kind, or any renewal thereof, although such policy or policies of insurance may not be signed by him or them as agent or agents of such company or who shall in any way directly or indirectly make or cause to be made any contracts of insurance for or on account of such company aforesaid shall be deemed to all intents and purposes an agent or agents of such company and shall be subject and liable to all the provisions as set forth by the insurance laws of this State.

§ 29. POWERS OF COMMISSIONER OF INSURANCE.] The Commissioner of Insurance shall have the power to adopt for use in the insurance department such forms of annual statements as may to him be considered the most practicable for the various kinds of insurance companies doing business in this State.

§ 30. REPEAL.] The provisions of this act may be altered, amended or repealed at any time.

§ 31. EMERGENCY.] Whereas, an emergency exists in that there is no law providing for the incorporation and regulation of life endowment and casualty insurance companies, therefore this act shall be in force from and after its passage and approval. All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 6, 1891.

CHAPTER 74.

[H. B. No. 65.]

RELATING TO ASSESSMENT INSURANCE COMPANIES.

AN ACT Relating to Life, Casualty and Other Insurance on the Assessment Plan, and the Conduct of the Business of Such Insurance.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. CONTRACT OF MUTUAL INSURANCE ON THE ASSESSMENT PLAN DEFINED—FRATERNAL SOCIETIES EXEMPTED.] Every contract whereby a benefit is to accrue to a party or parties named therein upon the death or physical disability of a person insured thereunder, or for the payment of any money or benefit from the proceeds of dues or assessments collected from persons holding similar contracts, but which contracts must show that the liabilities of the insured or members thereunder are not limited to fixed or artificial premiums, shall be deemed a contract of mutual insurance on the assessment plan; and the business involving the issuance of such contracts shall be carried on in this State only by duly organized and authorized corporations, which shall be subject only to the provisions and requirements of this act; but nothing herein contained shall be construed to apply to secret or fraternal societies, lodges or councils, now doing business in this State, or hereafter seeking to do business therein, which conduct their business and secure members on the lodge system exclusively, having ritualistic work and ceremonies in their societies, lodges or councils, and are under the supervision of a grand or supreme body, nor to any associations organized solely for benevolent purposes, and not for profit, which do not employ paid agents in soliciting business, nor to any association that limits its certificate holders to a particular order, religion or fraternity, or to the employees of a designated firm, business house or corporation.

SEC. 2. HOW SUCH A CORPORATION IS FORMED.] Nine or more persons, citizens of this State, may form a corporation to carry on the business of mutual insurance on the assessment plan, as defined in the first section. Such persons shall file in the office of the Commissioner of Insurance and with the register of deeds of the county where the principal office is located, a declaration signed by each of the incorporators and duly acknowledged before an officer authorized under the laws of this State to take acknowledgement of deeds, and shall therein express their intention to form an organization for the transaction of life or casualty insurance upon the assessment plan; the place where the principal office for the transaction of its business shall be

located, which shall be in this State; the manner in which the corporate powers granted by this act are to be exercised; the manner of electing trustees, or directors, or other persons, not less than nine in number, a majority of whom shall be residents of this State, by whatever name or title designated, who are to have and exercise the general control and management of its affair and funds, which election shall be in the manner prescribed by the by-laws of such corporation.

SEC. 3. CONDITIONS UPON WHICH CERTIFICATE OF AUTHORITY TO DO BUSINESS MAY ISSUE.] Upon filing in the office of the Commissioner of Insurance a copy of the declaration required by the preceding section, together with proof satisfactory to said Commissioner that at least 200 persons having made application in writing for membership therein, and have each made one payment of assessment, aggregating \$5,000, which is invested in State or county bonds of this State, and deposited with the State Treasurer, the principal to be by him held in trust for the benefit of the beneficiaries thereof, the same shall be referred to and examined by the Attorney General of the State, and if by him found conformable to the requirements of this act and not inconsistent with the Constitution and laws of the United States, or of this State, he shall certify accordingly and return the same with his certificate of such conformity to such Commissioner, to be filed and recorded in his office, and thereupon said Commissioner shall issue to said corporation a license or certificate of authority to engage in the business set forth in such declaration and the said corporators and those who may thereafter become associated with them or their successors shall be constituted a body politic and corporate and be lawfully entitled to commence business, and any copy of any paper referred to in this act, certified by said Commissioner, may be used and read in evidence in any action or legal proceeding with the same effect as the original.

§ 4. CONTINUANCE OF SUCH INCORPORATION AND HOW ITS AUTHORITY MAY BE REVOKED.] Every corporation created by or under this act shall continue until revoked by the judgment of a court of competent jurisdiction. No articles of incorporation, or certificate of incorporation, or corporation under the provisions of this act, shall continue valid, or have legal existence after one year from the date of such articles, unless the organization has been completed, and business begun thereunder within that time in accordance with the provisions of this act. Nor shall any corporation, company or individual solicit or cause to be solicited for such corporation any business until such corporation shall have complied with all the provisions of this act; *Provided, always,* That the name or title of any such proposed corporation shall not be the same as, nor too closely resemble, the name or title already in use by a corporation of this or other states, as indicated by the reports of the several insurance departments on file

in the office of the said Commissioner of Insurance, and said Commissioner shall not license any corporation the name or title of which so closely resembles one already in use as to mislead the public.

§ 5. HOW BY-LAWS ARE MADE, AMENDED OR CHANGED.] The corporators, trustees, directors, members or representatives, as may be provided in the declaration aforesaid, of any corporation, association or society organized or reorganized under this act shall have power to make such by-laws, not inconsistent with the Constitution or laws of this State or of the United States, or of this act, as may be deemed necessary for the government of its officers and the conduct of its affairs, and the same when necessary to alter and amend; and they and their successors may have a common seal, and may change and alter the same at their pleasure.

§ 6. HOW EXISTING ASSESSMENT ORGANIZATIONS MAY RE-ORGANIZE.] Any corporation existing under the laws of this State, and now engaged in transacting the business of mutual insurance on the assessment plan, may re-incorporate under the provisions of this act; *Provided*, That nothing in this act contained shall be construed as requiring or making obligatory upon any such corporation to re-incorporate, and any such corporation may continue to exercise all rights, powers and privileges conferred by this act, or its articles of incorporation, not inconsistent with this act and its provisions, the same as if re-incorporated hereunder.

§ 7. COMMISSIONER OF INSURANCE MAY SUSPEND SUCH CORPORATION, AND PROCEEDINGS THEREUNDER.] When the Commissioner of Insurance, on investigation, is satisfied that any corporation doing business in this State under this act has exceeded its powers, or failed to comply with any of the provisions of this act, or is conducting business fraudulently, he shall forthwith report the facts to the Attorney General, who shall thereupon give to the Commissioner of Insurance his written opinion upon such report, and if it appears thereby that the Attorney General is of the opinion there has been any violation of the provisions of this act, or of any provisions of law, then the Commissioner may suspend the power of such corporation to do business in this State until such corporation has complied with the provisions of this act, and with the laws of this State applicable to it, or until the court in which suit may be brought for that purpose shall revoke such suspension, or determine that there has been no such violation; *Provided*, Such suit be brought within ten days after such suspension. Pending such action the court may continue such order of suspension of the Commissioner of Insurance, or revoke the same on such terms as it may deem proper, and may make such order or decree as the interest of the corporation and the public may require.

§ 8. WHAT THE POLICY OR CERTIFICATE OF INSURANCE MUST CON-

TAIN. Every policy or certificate hereafter issued by any corporation doing business under this act, and promising a payment to be made upon any contingency, shall specify the sum of money which it promises to pay upon each contingency insured against, and the number of days after satisfactory proof of the happening of such contingency at which such payment will be made; and upon the occurrence of such contingency, unless the contract shall have been invalidated by fraud or by breach of its conditions, the corporation shall be obligated to the beneficiary for such payment at the time and to the amount specified in the policy or certificate; and this indebtedness shall be a lien upon all the property, effects and bills receivable of the corporation, with priority over all indebtedness thereafter incurred, except as hereinafter provided in case of the distribution of assets of an insolvent corporation. If the Commissioner of Insurance shall be satisfied, on investigation, that any such corporation has refused or failed to make such payment for thirty days after it became due, and after proper demand, he shall notify the corporation to issue no new policies or certificates until such indebtedness is fully paid; and no officer or agent of the corporation shall make, sign or issue any policy or certificate of insurance while such notice is in force.

§ 9. COMMISSIONER OF INSURANCE TO EXAMINE CORPORATIONS AND SUSPEND BUSINESS WHEN.] Whenever the Commissioner of Insurance shall have given the notice required by the last section, he shall proceed without delay to investigate the condition of the corporation, and shall have full power, in person or by deputy, to examine its books, papers and accounts, and to examine under oath its officers, agents, clerks, employes, certificate or policy holders, or any other person having knowledge of its business; and if it shall appear to him that its liabilities exceed its resources, and that it cannot within a reasonable time, not more than three months from the date of the original default, pay its accrued indebtedness in full, he shall suspend the power of such corporation to do business in this State, and in case of a corporation of this State shall forthwith apply to the district court of the county or city and county wherein such corporation has its principal place of business for an order closing the business of the corporation, and appointing a receiver or trustee for the distribution of its assets among its creditors; Provided, That no such final order shall be made until the corporation shall have had ten days' notice of the application within which time it may appear and show cause against application, if any it has; and *Provided*, That upon hearing the matter, the court shall have power to make any order which the interests of the corporation and the public may require.

§ 10. AN EMERGENCY FUND TO BE CREATED AND HOW USED.] Corporations organized or reorganized under this act shall provide in their contracts with policy or certificate holders for the accumulation of an emergency fund, to be disposed of as

provided in such contracts, but which shall be at all times not less than the proceeds of one periodical payment or assessment on all policy or certificate holders thereof; and *Provided*, That said fund in the case of casualty insurance companies shall not be less than \$5,000, and need not exceed the sum of \$10,000. Said funds shall be accumulated by existing corporations already formed for like purposes within six months from the passage of this act, and by all corporations, formed under this act, within six months from the date of their articles of incorporation, and, together with the income thereon, shall be a trust for the payment of policy or certificate obligations, and shall be invested in securities in which other insurance companies are allowed by law to invest their capital. When any such corporation shall discontinue business, the district court of the county or city and county wherein its principal place of business is situated may appoint a receiver or agent or trustee to administer the fund deposited with the State Treasurer, as provided in the second section of this act, and any unexpended portion of this emergency fund, which shall be applied, less a compensation not to exceed 5 per cent. to such receiver, agent or trustee, as said court may allow, first to the payment of accrued death or disability claims, and second, if a balance remains, the same to be distributed pro rata among the members in good standing at the time such corporation ceased to do business; *Provided always*, That any fund collected for a particular class of members shall be used and distributed exclusively for the benefit of that class.

§ 11. CONDITIONS UPON WHICH FOREIGN CORPORATIONS CAN DO BUSINESS.] Any corporation organized under the laws of another state or government to issue policies or certificates of life, casualty or other insurance upon human life on the assessment plan, shall, as a condition precedent to transacting business in this State, deposit with the Commissioner of Insurance a certified copy of its charter or articles of incorporation, a certificate from the insurance officer of its own state, showing its authority to do such business, a statement under oath by its president and secretary in the form required by the Commissioner of Insurance, of its business for the preceding year; and appointment of general agent, and a certificate under oath by its president and secretary that it is paying, and for twelve months next preceding has paid, the maximum amount named in its policies or certificates in full; and also a certificate from the proper authority in its own state or government that corporations of this State, engaged in life or casualty insurance on the assessment plan, as the case may be, are upon compliance with the laws of this State legally entitled to do business in such state or government; and also a copy of its policy or certificate and application, which must show that the liabilities of the insured or members are not limited to fixed or artificial premium, and also evidence satisfactory to the Commissioner of Insurance that the corporation accumulates a fund,

equal in amount to that required by Section 7 of this act, that such accumulation is permitted by the law of its incorporation and is a trust for the benefit of policy or certificate holders only, and is invested as required by laws of the State where incorporated. The Commissioner of Insurance shall thereupon issue a certificate of authority to such corporation to do business in this State, receivable annually, and such authority shall be revoked whenever the Commissioner of Insurance, on investigation, finds that such corporation is not paying the maximum amount named in its policies or certificates in full, or that the statements of its conditions and affairs required under the provisions of this act are false and fraudulent. Upon such revocation the Commissioner shall cause notice thereof to be published daily for four weeks, in some newspaper published in the County of Burleigh, and no insurance business shall thereafter be written by it or its agents in this State. When any other state or country shall impose any additional license fees, taxes or penalties upon any corporation organized under this act, life [like] license, fees, taxes or penalties shall be imposed upon corporations of the same kind and their agents of such state or country doing business in this State.

§ 12. LIMIT OF POLICY OR CERTIFICATE OF INSURANCE.] No corporation doing business under this act, excepting casualty insurance corporations, shall issue a certificate or policy upon the life of any person under fifteen or more than sixty years of age, nor upon life in which the beneficiary named has not an insurable interest.

§ 13. PENALTY FOR FALSE STATEMENTS OR REPRESENTATIONS.] Any solicitor, agent, examining physician or other person, who shall knowingly make any false or fraudulent statement or representation in or with reference to any application for insurance, or for the purpose of obtaining any money or benefit from any corporation doing business under this act, shall be guilty of a misdemeanor, and upon conviction, shall be punished by a fine not less than one hundred (100) or more than five hundred (500) dollars, or by imprisonment in the county jail for not less than thirty days or more than one year, or by both such fine and imprisonment, in the discretion of the court, and any person who shall willfully make a false statement of any material fact or thing in a sworn statement as to the death or disability of a certificate holder in any such corporation for the purpose of procuring the payment of a benefit named in the certificate of such holder, shall be guilty of perjury, and shall be proceeded against and punished as provided by the statutes of this State in relation to the crime of perjury.

§ 14. WHAT THE CONTRACT OF INSURANCE MUST SPECIFY.] Every contract made by any such corporation or association with its members, or in lieu thereof every notice of assessment or call for the payment of money, shall specify the amount to be paid, the object and purpose for which it is to be paid, the

time the same shall become due, and no funds or moneys received or collected by any corporation or association organized, existing or doing business hereunder, for the purpose of paying or providing for the payment of death losses, casualty indemnities or other benefits, shall be used or paid out for any other purpose whatever, except as provided in such contract or notice.

§ 15. TO WHOM POLICY OF INSURANCE IS PAYABLE.] The proceeds of any certificate or policy issued by any such corporation or association, except such as are expressly made payable to a creditor or the legal representative of a member, shall be payable in case of death or accident to the beneficiary named therein, free from all claims of the representatives of such member or of any of his creditors.

§ 16. WHEN POLICY OF INSURANCE LAPSES.] No policy or certificate issued by any corporation or association doing business under the provisions of this act shall lapse or be lapsed for the non-payment of any assessment, dues or premium, unless the corporation or association has first mailed to the assured member under such policy or certificate at his or her last given postoffice address, a notice setting forth the amount to be paid, and the time the same is due and payable; and an affidavit made by the officer, bookkeeper or clerk of any such corporation having charge of the mailing of notices setting forth the facts as they appear on the records in the office of the said corporation, showing that such notice was mailed and the date of mailing, shall be accepted by all courts of this State as conclusive evidence of the mailing of such notice.

§ 17. WHEN REPORTS TO BE MADE.] Every corporation doing business under this act shall annually return to the Commissioner of Insurance, on or before the 1st day of March, in such manner and form as is prescribed or may be prescribed by the laws of this State relating to corporations doing business of insurance on the assessment plan in this State, a statement of its conditions and affairs for the year ending on the preceding 31st day of December, which statement must be filed with the said Commissioner and published the same as fire insurance companies doing business in this State, and the said Commissioner, in person or by deputy, shall have the power of visitation and examination into the affairs of any such corporation at any time in his discretion.

§ 18. FOREIGN COMPANIES MUST DESIGNATE PERSON UPON WHOM SERVICE OF LEGAL PAPERS MAY BE MADE.] Every such corporation, association or society of any other state or territory doing business within this State, except such as have already made such designation, and every such association hereafter commencing business within this State shall, before doing business therein, designate some person residing in this State as a person upon whom service of legal proceedings and papers may be made, as upon such association, such designation

to be made by an instrument under the hand of the president and secretary or other duly authorized officers of such association, filed in the office of the Commissioner of Insurance of this State, and any legal process affecting such association, corporation or society served on the Commissioner of Insurance of this State, shall have the same effect as if personally served on the association or its authorized attorney. Whenever service of any such legal process is made on the Commissioner of Insurance, he shall at once notify by mail the association, corporation or society affected thereby. If the person designated as above provided shall die or remove from such place, another person shall be appointed in his place within thirty days and such attorney, at the option of association, corporation or society, be changed at any time. Notice of any change of such association, or any new or different designation of a person upon whom service may be made as above provided, shall, under the hand of such president and secretary, or other officer, be filed with the Commissioner aforesaid, within thirty days after such change or new designation is made. Upon failure to comply with any of the provisions of this section within thirty days after written notice by said Commissioner of such default and requiring such compliance, such association shall cease to do business in this State until compliance therewith; and any officer, agent or representative of such association who shall issue any certificate during such failure, after the expiration of such notice to comply with those requirements, shall be liable to punishment as hereinafter provided.

§ 19. HOW REVOCATION OF LICENSE MAY BE SET ASIDE.] Any such corporation, the license of which is refused or revoked, may apply to the district court of Burleigh county, North Dakota, for an order directing said Commissioner of Insurance to show cause at special term why said revocation of said license shall not be set aside or license issued. On the return of such order the issue of fact shall be put in writing and shall be tried at special term in the usual mode of trials of fact in actions, unless said corporation shall request a trial by jury. If a jury trial is requested by said corporation the court shall order said case to be placed on the general term calendar for trial. If the verdict or decision shall be in favor of said corporation the court shall direct said Commissioner to issue a license to said corporation forthwith.

§ 20. COMMISSIONER OF INSURANCE TO INQUIRE INTO CONDITION OF SUCH ORGANIZATION.] The Commissioner of Insurance is hereby authorized and empowered to address any inquiries to any of the corporations, associations or societies referred to in this act, in relation to its doings or condition, or any other matter connected with its transactions relative to the business contemplated by this act; and it shall be the duty of the officers of the corporation, association or society so addressed to promptly reply in writing to all such inquiries, under the oath of its president and secretary, or other officers, if required.

§ 21. FEES TO BE PAID.] Every company, corporation or society, person or persons to whom this act shall apply shall be liable to the same fees and obligations as other insurance companies doing business in this State.

§ 22. WHAT CORPORATIONS SUBJECT TO THIS ACT.] All corporations of this State transacting the business of life or casualty insurance on the assessment plan, as referred to in this act, are hereby made subject to all the provisions of this act, and all corporations organized under this act shall hold, within the county in which the principal office is located in this State, a stated annual meeting of their members or policy holders, in such manner and subject to such regulations, restrictions and provisions as the constitution or by-laws of the same may provide. At such meeting a full and specific report of all receipts and expenditures of the preceding year, or since the last meeting, as the case may be, shall be submitted. Notice of each such meeting shall be given in such manner as the by-laws may direct, but not less than fifteen days before such meeting, to each director, member or policy holder. The books and papers of such association shall at all reasonable times be opened for examination by members or their representatives. At the stated meeting for the election of officers, trustees, directors or managers, a majority of the persons entitled to vote at such meeting shall not be necessary to a quorum, nor shall failure to elect on the day designated for such meeting dissolve any corporation under this act, but it shall be lawful to hold such election on a subsequent day on the same notice as required for the stated meeting. No newspaper publication of a by-law regulating any election shall be necessary to its validity.

§ 23. RIGHTS OF MEMBERS.] That membership in any corporation authorized to do business under this act shall give to any member thereof the right at all times, with the consent of such corporation, to make any change in his or her payee or payees, beneficiary or beneficiaries, without requiring the consent of such payee or payees, beneficiary or beneficiaries.

§ 24. HOW ARTICLES OF INCORPORATION MAY BE AMENDED.] Any corporation, association or society organized under this act may, at any regular or special meeting called for that purpose by a majority vote of the members present, or by proxy, amend its articles of association; notice of such meeting, stating the proposed amendment, shall be mailed to each member thirty days before such meeting. Amended articles shall be certified under oath by the president and secretary, approved and filed the same as the original articles. Whereas, a number of assessment insurance companies are now ready to comply with the provisions of this act; therefore, an emergency exists, this act shall be in force from and after its passage and approval.

Approved March 6, 1891.

IRRIGATION.

CHAPTER 75.

[H. B. No. 240.]

TO PROMOTE IRRIGATION.

AN ACT to Promote Irrigation.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. PETITION TO COUNTY COMMISSIONERS—TRUSTEES.] Whenever the owners of any body of lands susceptible of one mode of irrigation desire to irrigate the same, they may present to the board of county commissioners of the county in which the lands, or a greater portion thereof, are situated, at a regular or special meeting of the board, a petition setting forth that they desire to adopt measures to irrigate the same, the description of the lands by legal subdivisions, the number of acres in the whole district and the number of acres in each tract, with the names of the owners thereof and the names of three persons who may desire to serve as trustees for the first three months, and the name desired for the proposed irrigation district.

§ 2. PETITION TO BE PUBLISHED.] The petition must be verified by the affidavit of one of the petitioners, and must be published for two weeks next preceding the hearing thereof, in some newspaper published in the county in which the lands are situated, or if there is no newspaper published in the county, then it must be published in some newspaper having a general circulation in the county, and an affidavit of publication must be filed with such petition.

§ 3. WHEN DISTRICT IS IN TWO COUNTIES.] When a district is situated partly in different counties the trustees must after the petition has been granted, forward a copy thereof to the clerk of the board of county commissioners of each of the counties in which any portion of the district may lie, and the board to which the same is forwarded must not allow another district to be formed within such district unless with the consent of the trustees thereof.

§ 4. APPROVAL OF COUNTY COMMISSIONERS.] If the board of county commissioners find, upon the hearing of the petition, that the statements are correct, and that no land is improperly included or excepted from the district, they must note their approval on the petition, which approval must be signed by the

president and attested by the county auditor, and from and after the approval the district shall be considered to be duly formed, and the persons named in the petition shall be the trustees for the first three months and until their successors are appointed.

§ 5. PETITION RECORDED.] The petition must then be recorded by the register of deeds in a book kept for that purpose.

§ 6. BY-LAWS.] After the approval of the petition the petitioners may make such by-laws as they deem necessary for future appointment of trustees and to effect the works of irrigation, keep the same in repair and operation, and for the control and management thereof, by the votes of consent of a majority of the owners of the lands within their district.

§ 7. BY-LAWS, TO BE SIGNED AND RECORDED.] The by-laws adopted must be signed by persons owning a majority of the land within the district, and must be recorded by the register of deeds in the same book and immediately following the petition.

§ 8. POWER OF BOARD.] The board thus formed shall have power to elect one of their number president thereof, and to employ engineers to survey, plan, locate and estimate the cost of the works necessary for the irrigation, including dams, canals, sluices, water gates, embankments and materials for construction, and to construct, maintain and keep in repair all works necessary to the object in view.

§ 9. REPORTS.] The board of trustees must report to the board of county commissioners of the county, or if the district is in more than one county, then to the board of county commissioners of each county in which the district is situated, the plans of the work and estimates of the cost, together with estimates of the incidental expenses of superintendence, repairs, etc.

§ 10. ASSESSMENT OF BENEFITS.] The board by which the district was formed must appoint three commissioners, disinterested persons, resident in the county in which the district or some portion thereof is situated, and must view and assess upon the lands situated in the district a charge proportionate to the whole expense and to the benefits which will result from such works, which charge must be collected and paid into the county treasury as hereinafter provided, and must be placed by the treasurer to the credit of the district, and paid out for the work of irrigation upon the warrants of the trustees, approved by the board of county commissioners of the county.

§ 11. WARRANTS OF TRUSTEES, HOW PAID.] The warrants drawn by the trustees must, after they are approved by the board of county commissioners, be presented to the treasurer of the county, and, if they are not paid on presentation, like indorsement must be made thereon, and they must be registered in like manner as county warrants.

§ 12. CHARGE IN COUNTY WHERE LAND SITUATED.] If a district is situated partly in different counties the charge must be

paid into the treasury of the county in which the particular tract may be situated.

§ 13. ADDITIONAL ASSESSMENTS, HOW LAID.] If the original assessment is insufficient to provide for the complete irrigation of the lands of the district, or if further assessments are from time to time required for the protection, maintenance and repair of the works, the trustees must present to the board of county commissioners in which the district was formed a statement of the work to be done and its estimated cost, and the board must make an order directing the commissioners who made the original assessment, or other commissioners to be named in such order to assess the amount of such estimated cost as a charge upon the lands within the district, which assessment must be made and collected in the same manner as the original assessment.

§ 14. LIST OF CHARGES AGAINST LAND.] The commissioners appointed by the board of county commissioners shall make a list of the charges against each tract of land.

§ 15. WHAT LIST TO CONTAIN.] The list must contain:

1. A description by legal subdivisions or natural boundaries of each tract assessed.

2. The number of acres in each tract.

3. Names of the owners of each tract, if known, and if unknown that fact.

4. The amount of the charge assessed against each tract.

§ 16. LIST TO BE FILED.] The list so made must be filed with the county treasurer of the county, or if the district is partially situated in different counties, then the original list must be filed in the county first in order under alphabetical arrangement, and copies thereof, certified by the commissioners, must be filed with the treasurer of each of the other counties.

§ 17. CHARGES CONSTITUTE A LIEN.] From and after the filing of the list, or certified copy thereof, the charges assessed upon any tract of land within the county constitutes a lien thereon.

§ 18. DELINQUENTS MAY PAY TREASURER, WHEN.] The lists thus prepared must remain in the office of the treasurer for thirty days, or longer if ordered by the board of trustees, and during the time they so remain any person may pay the amount of the charge against any tract to the treasurer, without cost.

§ 19. DELINQUENCIES, HOW COLLECTED.] If at the end of thirty days, or of the longer time fixed by the trustees, all of the charges have not been paid, the treasurer must return the list to the states attorney, who must at once proceed by civil action to collect such charges.

§ 20. WORK, HOW EXECUTED.] The work must be executed under the direction and in the manner prescribed by the board of trustees.

§ 21. ACCOUNTS, HOW KEPT.] The board must accurately keep all accounts of expenditures, which accounts, and all contracts

that may be made by them, shall be open to the inspection of the board of county commissioners and every person interested.

§ 22. TRUSTEES MAY ACQUIRE PROPERTY.] The trustees may acquire by purchase all property necessary to carry out and maintain the system of irrigation provided for.

§ 23. CONDEMNATION PROCEEDINGS.] The trustees may acquire by condemnation:

First. The right to use of any running water not already used for culinary or domestic purposes, or for irrigating, milling or mining purposes.

Second. The right of way for canals, drains and embankments, and other work necessary, and may take materials for the construction, maintenance, and repair thereof, from lands within the limits of the district.

§ 24. CONDEMNATION, HOW MADE.] The provisions of Section 3000, Compiled Laws, are applicable to, and the condemnation herein provided for must be made thereunder.

§ 25. IN CASE OF SINGLE OWNERSHIP.] Thenever any district susceptible of one mode of irrigation is entirely owned by parties who desire to irrigate the same and to manage the irrigation without the intervention of trustees or the establishment of by-laws, they may file the petition provided for in Sections 1 and 2, and must state therein that they intend to undertake the irrigation on their own responsibility.

§ 26. RIGHTS AND IMMUNITIES.] If the petition is granted, the owners of the land shall have all the rights, immunities and privileges granted to boards of trustees, and in all proceedings the names of the owners may be used instead of the names of trustees.

§ 27. REPEAL.] All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 7, 1891.

CHAPTER 76.

[H. B. No. 224.]

CREATING THE OFFICE OF SUPERINTENDENT OF IRRIGATION AND FORESTRY.

AN ACT Entitled "An Act Creating the Office of State Superintendent of Irrigation and Forestry, and Prescribing the Duties Thereof."

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. CREATION OF OFFICE.] That the office of State Superintendent of Irrigation and Forestry is hereby created and an officer to be known as the State Superintendent of Irrigation and

Forestry shall be appointed by the Governor, by and with the advice and consent of the Senate.

§ 2. TERM OF OFFICE.] The first term of said office of State Superintendent of Irrigation and Forestry shall expire on the 1st day of March, A. D. 1893. The term of office thereafter shall be two years.

§ 3. QUALIFICATION.] The State Superintendent of Irrigation and Forestry shall, before entering upon the duties of his office, take and subscribe to an oath to support the Constitution of the United States and that of this State and that he will faithfully discharge the duties of his office according to the best of his ability. Said oath shall be deposited in the office of the Secretary of State.

§ 4. SALARY.] The State Superintendent of Irrigation and Forestry shall receive for his services a salary of one thousand per year, and five hundred dollars per year for traveling and other expenses.

§ 5. POWERS AND DUTIES.] The State Superintendent of Irrigation and Forestry shall have charge of the development of a system of irrigation within the State by means of artesian wells, dams, reservoirs, storage works, canals, or other methods that may be found practical or may be adopted by the State or the people; shall have jurisdiction over the system or department of State forestry, and shall clearly explain its necessity and economic uses, and by desirable methods aid in promoting tree culture in this State; shall superintend all meteorological or weather stations or schools, and shall render such assistance as shall best conduce to their usefulness. And he shall investigate and explain all the laws, causes and operations of rain falls and, as far as possible, show how they can be increased or produced by scientific methods or inventive skill; and he shall present the best systems for obviating, as far as it can be done, all unfavorable or dangerous climatic disturbances. He shall visit such parts of the State as he may deem necessary, or as the Governor may direct him to visit, and examine and make notes of the geological formation, topography, water supply, its extent, pressure, operation and utility, and other features bearing upon artesian wells, and all other methods of irrigation and water supply from all attainable sources, and shall investigate the workings and gather all statistical information in relation to tree culture and meteorological observations or experiments. And he shall recommend to the Legislative Assembly, at its next session, the enactment of such measures as he may deem necessary to develop and make practical the systems beneficial to agriculture and the people, coming under his jurisdiction.

§ 6. CO-OPERATION.] It shall be the duty of the State Superintendent of Irrigation and Forestry to co-operate with the officers of the government of the United States in any survey or other work designed to establish a system of irrigation, or to

solve the irrigation problems peculiar to the State of North Dakota.

§ 7. EXPERIMENTAL AND OBSERVATION STATIONS.] The State Superintendent of Irrigation and Forestry shall, as soon as practical, establish, each by itself, irrigation and meteorological experimental and observation stations wherever the same may be beneficial, but only where the service of practical farmers or other persons can be secured without expense to the State. The observers appointed under this section shall note carefully the time and manner of applying water artificially to the soil, and its effect on vegetation, and they shall collect such other data as may be beneficial in solving the problem of irrigation, and shall give all possible meteorological data and facts, and shall make reports of the same to the State Superintendent of Irrigation and Forestry under such rules as the said Superintendent may prescribe.

§ 8. ANALYSES.] It shall be the duty of the State Superintendent of Irrigation and Forestry to procure an analyses of soil and water of different sections of the State. The president of the Agricultural College at Fargo shall co-operate with and assist the said Superintendent in the work of analyses, to the end that the adaptability of the water to the soil may be determined.

§ 9. ANNUAL REPORT.] It shall be the duty of the State Superintendent of Irrigation and Forestry to report annually to the Governor on the 1st day of December, giving a detailed account of the work performed by him during the year; with his recommendation of such legislation as he may think needful, bearing upon the subjects involved in his department.

§ 10. EMERGENCY.] Whereas an emergency exists in that there is no law regulating the matters involved in this act, and as the best interest of the State demand their prompt application, therefore this act shall be in force immediately from and after its passage and approval.

Approved March 7, 1891.

JUDICIAL DISTRICTS.

CHAPTER 77.

[S. B. No. 76.]

ATTACHING CERTAIN COUNTIES TO WARD FOR JUDICIAL PURPOSES.

AN ACT Attaching and Annexing the Counties of Renville, Montraille, Flannery, Buford, Garfield and Stevens, in the Second Judicial District of the State of North Dakota, to the County of Ward, in Said Second Judicial District and State, for Judicial and Other Purposes.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. WHAT COUNTIES ATTACHED.] That the counties of Renville, Montraille, Flannery, Buford, Garfield and Stevens, in the Second Judicial District of the State of North Dakota, be and the same is hereby attached and annexed to the county of Ward, in said Second Judicial District and State, for judicial and other purposes and the recording of any instrument pertaining to property in the aforesaid counties.

§ 2. REPEAL.] All acts and parts of acts conflicting with the provisions of this act are hereby repealed.

§ 3. EMERGENCY.] Whereas an emergency existing in that said counties above named are not organized and now have no place provided by law where to record instruments pertaining to property in said counties, therefore this act shall be in force from and after its passage and approval.

Approved February 21, 1891.

CHAPTER 78.

[S. B. No. 68.]

ATTACHING CERTAIN COUNTIES TO M'HENRY FOR JUDICIAL PURPOSES.

AN ACT Attaching the County of Church, in the Second Judicial District of the State of North Dakota, to the County of McHenry, in said Judicial District and State, for Judicial and Other Purposes.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. COUNTY ATTACHED.] That the County of Church, in the Second judicial district of the State of North Dakota, be and the

same is hereby attached and annexed to the County of McHenry, in said Second judicial district and State, for judicial and other purposes.

§ 2. TRANSCRIBING OF RECORDS.] The register of deeds of said McHenry county is hereby authorized and empowered to transcribe all records in the County of Pierce affecting property in said County of Church.

§ 3. REPEAL.] All acts and parts of acts in conflict herewith are hereby repealed.

§ 4. EMERGENCY.] An emergency exists in that there is no place provided by law to record instruments pertaining to property in said County of Church, this act shall take effect and be in force from and after its passage and approval.

Approved February 21, 1891.

CHAPTER 79.

[S. B. No. 36.]

SUBDIVIDING THE FIFTH JUDICIAL DISTRICT.

AN ACT Defining the Boundaries of the Fifth Judicial District, Subdividing the Same, and Fixing the Time for Holding the Terms of [the] District Court Therein.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. DISTRICT, INCLUDE WHAT COUNTIES.] The Fifth judicial district of this State shall consist of the counties of Stutsman, Barnes, LaMoure, Griggs, Foster, Eddy, Wells and Logan.

§ 2. FIRST SUBDIVISION.] That the First judicial subdivision of said district shall consist of the county of Stutsman and two terms of the district court shall be held therein each year, in the city of Jamestown, in said county, commencing on the first Tuesday of January and July of each year.

§ 3. SECOND SUBDIVISION.] That the Second judicial subdivision of said district shall consist of the county of Barnes, and two terms of the district court shall be held therein each year, in the city of Valley City, in said county, commencing on the second Tuesday of June and December of each year.

§ 4. THIRD SUBDIVISION.] That the Third judicial subdivision of said district shall consist of the county of LaMoure and two terms of the district court shall be held therein each year at the town of LaMoure, in said county commencing on the first Tuesday of March and the fourth Tuesday of October of each year.

§ 5. FOURTH SUBDIVISION.] That the Fourth judicial subdivision of the said district shall consist of the county of Griggs,

and two terms of the district court shall be held therein each year at the town of Cooperstown, in said county, commencing on the second Tuesday of May and November of each year.

§ 6. FIFTH SUBDIVISION.] That the Fifth judicial subdivision of the said district shall consist of the county of Foster and two terms of the district court shall be held therein each year, at the town of Carrington, in said county, commencing on the second Tuesday of April and October of each year.

§ 7. SIXTH SUBDIVISION.] That the Sixth judicial subdivision of said district shall consist of the county of Eddy, and two terms of the district court shall be held therein each year, at the town of New Rockford in said county, commencing on the fourth Tuesday in May and November of each year.

§ 8. SEVENTH SUBDIVISION.] That the Seventh judicial subdivision of said district shall consist of the county of Wells, and two terms of the district court shall be held therein each year, at the town of Sykeston in said county commencing on the fourth Tuesday of March and September of each year.

§ 9. EIGHTH SUBDIVISION.] That the Eighth judicial subdivision of said district shall consist of the county of Logan, and two terms of the district court shall be held therein each year, at the town of Napoleon in said county, commencing on the fourth Tuesday of April and October of each year.

§ 10. ADDITIONAL TERMS, HOW CALLED.] That the judge of the district court shall have authority and he is hereby authorized to call additional terms of said court in any judicial subdivision, or to adjourn the terms of said court herein provided for, whenever in his judgment, he may deem it necessary and for the best interests of the people to do so.

§ 11. REPEAL.] All acts or parts of acts in conflict with this act are hereby repealed.

§ 12. EMERGENCY.] An emergency exists, in this, that the Constitution provides that two terms of the district court shall be held annually in each organized county in this State, and there being no Legislative enactment to carry said Constitution into effect, therefore this act shall take effect and be in force immediately from and after its passage and approval.

Approved March 9, 1891.

JUSTICE COURTS.

CHAPTER 80.

[S. B. No. 96.]

AMENDING JUSTICE'S CODE OF 1877.

AN ACT to Amend Section 2 of Article 1 of Chapter 1 of the Justice's Code, Revised Codes of 1877, Entitled "An Act to Establish a Code of Proceedings in Courts of Justices of the Peace and to Limit the Jurisdiction of the Same."

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 2 of Article 1 of Chapter 1 of the Justices Codes, Revised Codes of 1877, entitled "An Act to establish a code of proceedings in courts of justices of the peace, and to limit the jurisdiction of the same," be amended so as to read as follows:

Sec. 2. CIVIL JURISDICTION CLASSIFIED AND LIMITED.] The civil jurisdiction of these courts, within their respective counties, extends:

1. To an action arising on contract, for the recovery of money only, where the sum claimed does not exceed two hundred (200) dollars.

2. To an action for damages for injury to the person, or for taking or detaining personal property, or for injuring personal property, or for an injury to real property, where the title or boundary of such real property does not in any wise come in question, and where the damages claimed does not exceed two hundred (200) dollars.

2. To an action for a fine, penalty or forfeiture not exceeding two hundred (200) dollars, given by statute on [or] the ordinance of an incorporated city or town.

4. To an action upon a bond or undertaking conditioned for the payment of money, not exceeding two hundred (200) dollars, though the penalty exceeds that sum, the judgment to be given for the sum actually due. When the payments are to be made by installments, an action may be brought for each installment as it becomes due.

5. To an action to recover the possession of personal property, when the value of such property does not exceed two hundred (200) dollars.

6. To take and enter judgment on the confession of a defend-

ant, when the amount confessed does not exceed two hundred (200) dollars.

7. To actions for forcible entry and detainer, or detainer only of real property, when the title or boundary thereof in nowise comes in question.

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

§ 3. EMERGENCY.] Inasmuch as it is essential that the above entitled act should conform to the State Constitution; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 9, 1891.

CHAPTER 81.

[S. B. No. 109.]

CHANGE OF VENUE.

AN ACT to Amend Section 1, Chapter 82, of the General Laws of 1887.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 112 of Chapter 2 of the Justice's Code, being Section 6153 of the Compiled Laws of 1887, be and the same is hereby amended to read as follows:

"In criminal proceedings before a justice of the peace, a change of the place of trial or examination shall be had at any time before such trial or examination commences, when it appears from the affidavit of the defendant that he believes he cannot have a fair and impartial trial or examination before such justice, by reason of the interest, prejudice or bias of such justice, and such affidavit need not show the facts or circumstances constituting such interest, prejudice or bias; whereupon the cause shall be transferred to the next nearest justice of the same county, unless the parties otherwise agree; *Provided*, That a change of the place of trial or examination under the provisions of this section can be had but once; *Provided, however*, That the fees and costs of the justice for making the transcript and transferring the case, hearing or examination to another justice, the expenses and fees of the sheriff or other office for delivering said transcript to the justice to which said hearing, cause or examination shall be so transferred, shall be paid by the party making the application for such change of venue before the justice before whom said cause, hearing or examination was commenced shall be compelled to make said transcript or transfer said cause, hearing or examination; *Provided, further*, That in case the party making said application

shall fail to pay said charges, costs and fees as aforesaid within twenty-four hours after said change of venue shall have been granted, then such change of venue shall fail, and the justice before whom such cause, hearing or examination was commenced shall proceed to hear, pass upon and determine said cause, hearing or examination the same as though said change of venue had been asked for or granted.

Approved March 9, 1891.

LAWS.

CHAPTER 82.

[H. B. No. 185.]

PROVIDING FOR COMPILATION.

AN ACT Entitled, "An Act to Provide for the Compilation, Publication, Distribution and Sale of the Laws of the State of North Dakota.

WHEREAS, There has been no legalized compilation of the laws of this State; and

WHEREAS, The laws passed at the several sessions of the Legislature of the Territory of Dakota and of the State of North Dakota are somewhat confused and inconsistent and do not conform to our State Constitution, and are now practically out of print, so that to ascertain the law on many subjects, it is attended with great labor, difficulty and uncertainty; and

WHEREAS, There are many measures that the present Legislature will not have time to properly consider and perfect; therefore

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. COMMISSION, HOW CONSTITUTED—DUTIES OF.] That there shall be appointed by the Governor, not later than the 1st day of May, 1891, a committee of three persons, two of whom shall be reputable attorneys admitted to practice in the highest courts of this State, and one of whom shall be an experienced business man, whose duty it shall be to compile, arrange, classify and report the laws of this State which may be in force on the 1st day of July, A. D. 1891. In such compilation there shall be, so far as practicable, an arrangement according to the general method of classification adopted in the Revised Code of 1877 of the Territory of Dakota. Each chapter or subdivision of a chapter shall be headed by a syllabus of its con-

tents, and shall have brief and comprehensive marginal notes, which shall state, in addition to the subject matter, the date of its enactment and the original number of the chapter and section. The laws so compiled shall be comprehensively and accurately indexed, and prefaced with a general table of contents, and such directions as shall serve to facilitate reference. In an appendix to the volume of General Laws, as compiled, shall be printed the Congressional act for the organization of the Territory of Dakota and subsequent acts of Congress amendatory thereto, the "Enabling Act," the Constitution of the United States and of the State of North Dakota. Such appendix shall also contain a list of the titles of all Special and General Laws passed since 1877, arranged by years, with the General and Special Laws classified separately, with notes showing which acts or parts of acts have been repealed, and when, and which have become obsolete, and why. The said compilers shall report to the next session of the Legislature any contradictions, inconsistencies or omissions found in existing laws, and shall draft and report to the next session of the Legislature such revenue and other laws as in their judgment would be of use and benefit to the State, for the information, assistance and action of such Legislature. The current expenses of said Committee for stationery, postage and other incidental matters pertaining to the compilation and arrangement of said laws, shall be paid out of the State Treasury, on verified accounts, approved by the Governor, and the State Auditor is hereby directed to draw his warrants for the amounts of such verified accounts, approved as aforesaid.

§ 2. COMPILATION TO BE ACTED UPON BY THE LEGISLATIVE ASSEMBLY—PRINTING—DISTRIBUTION.] When the compilation and report so made, as aforesaid, shall have been acted upon by the next Legislature, and the said committee have incorporated in such compilation the laws passed at such session, they are hereby authorized to make a contract, subject to approval by the Governor, for printing and binding the laws so compiled, and to supervise the execution thereof. Such contract shall be made with the lowest and best bidder for such work, after advertisement for proposals in at least three newspapers printed in this State, for one month prior to the letting of such contract, which advertisement shall designate the quality of paper and binding and style of the type to be used in the work. Said committee shall have the power to reject any and all proposals for the execution of the work, and to re-advertise and secure further bids. The committee shall certify to the Governor the amounts which may become due under such contract for said work, and, upon the Governor's approval thereof, the Auditor shall issue his warrants upon the Treasurer for payment of the sums so certified. Said laws shall be printed in one octavo volume, bound in law sheep on heavy paper covers. There shall be printed and bound as aforesaid, 2,000 copies of such Compiled Laws, and delivered to the

Secretary of State for distribution and sale, and the Governor shall issue his proclamation announcing such fact and his acceptance of such compilation and revision, and thirty (30) days after the date of such proclamation said compilation shall go into effect, and thereafter the laws so compiled shall be received by all the courts and officers of this State, as original enrolled acts approved and filed in the office of the Secretary of State, as now provided by law. And the Secretary of State shall distribute one copy of the same to each of the following: The principal officers in charge of each public institution in the State, and to each library association organized and maintained for the benefit of the public in any county or town in the State, one copy to the judges of the district and probate courts, and states attorneys, one copy to each clerk of the district courts, sheriff, register of deeds, auditor, treasurer, coroner, superintendent of public schools, chairman of board of county commissioners, and to the board of supervisors of each civil township in the county for use and reference of township officers not otherwise herein specified. And the Secretary of State shall offer for sale and sell said Revised Laws as follows: For each copy sold he shall receive 20 per cent. above the price paid to the publishers for each copy published. And all money received from the sale of said Laws shall be by him turned into the State Treasury.

§ 3. COMPENSATION OF COMMISSION.] Each of said committee so appointed shall receive for all such service performed under the provisions of this act the sum of \$2,500 and the State Auditor is hereby directed to draw warrants quarterly upon the State Treasurer for the amount due each of said committee. Said warrants to be approved by the Governor as shown by duly verified vouchers filed by each of said committee and the said committee when organized are hereby authorized to employ a competent clerk who shall receive for his services the sum of \$1,000 to be paid by the Treasurer upon the warrant of the State Auditor duly approved by the Governor.

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

§ 5. EMERGENCY.] Whereas an emergency exists in this, that provision is made in this act for the appointment of the committee herein provided for not later than the 1st day of May, 1891, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 10, 1890.

CHAPTER 83

[S. B. No. 133.]

RELATING TO DISTRIBUTION OF SESSION LAWS.

AN ACT to Amend Section 26, Chapter 119, Laws of 1890, Entitled "An Act in Relation to Printing and Binding for the State, to Create a Printing Commission, Providing for the Distribution of Public Documents, Reports and Session Laws, Prescribing the Duties of State Officers in Relation Thereto and Making an Appropriation for Document Fund."

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENLMENT.] That Section 26 of Chapter 119, Laws of 1890, entitled "An Act in relation to printing and binding for the State, to create a Printing Commission, providing for the distribution of public documents, reports and Session Laws, prescribing the duties of State officers in relation thereto, and making an appropriation for Document Fund," be amended to read as follows:

Sec. 26. WHO ENTITLED TO LAWS.] Every member and officer of the Legislative Assembly, for himself, shall have a copy of the laws; every judge and clerk of court of record; every justice of the peace, constable, chairman of the board of township supervisors, township clerk; every mayor, auditor, treasurer, clerk, recorder, alderman, or trustee of any ward in any city or incorporated village; every county auditor, treasurer, sheriff, register of deeds, court commissioner, county attorney, county superintendent of schools, surveyor, coronor, and county commissioner is entitled to receive one copy of the General Laws passed at each session of the Legislative Assembly, for their use while filling such offices, but every such officer, except members and officers of the Legislative Assembly, shall deliver the same to his successor in office, for his use while filling such office; and if any person refuse, on demand being made, to make such delivery, he shall forfeit and pay not less than five (5) nor more than fifteen (15) dollars, to be recovered in any action brought by the successor in office of any such person, in the name of the State of North Dakota, for the use of the county where such action is brought, before any justice of the peace in such county.

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

§ 3. EMERGENCY.] An emergency exists in that the distribution of laws herein provided for will take place before July 1, 1891; therefore this act shall be in force from and after its passage and approval.

Approved March 9, 1891.

LEGISLATURE.

CHAPTER 84.

[S. B. No. 199.]

PREScribing THE DUTIES OF PRESIDENT PRO TEMPORE OF THE SENATE.

AN ACT Entitled "An Act Prescribing the Duties of the President *Pro Tempore* of the Senate."

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. WHEN PRESIDENT PRO TEM. TO ACT.] In case of the death, impeachment, resignation, failure to qualify, absence from the State, removal from office, or the disability of the Lieutenant Governor, the powers and duties of the office for the residue of the term, or until he shall be acquitted or the disability removed, shall devolve upon the President *pro tempore* of the Senate; and when presiding over any meeting of the Senate all the powers and duties of the office of Lieutenant Governor shall devolve upon the President *pro tempore* of the Senate.

§ 2. EMERGENCY.] Whereas, there is now no law prescribing the time when the President *pro tempore* of the Senate may take the place of the Lieutenant Governor, an emergency exists, therefore this act shall take effect from and after its passage and approval.

Approved March 6, 1891.

MARRIAGEABLE AGE.

CHAPTER 85.

[S. B. No. 185.]

AMENDMENT TO LAWS OF 1890 IN RELATION TO MARRIAGEABLE AGE.

AN ACT to Amend Chapter 91 of the Laws of 1890.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 2 of Chapter 91 of the Laws of 1890 be amended to read as follows:

Sec. 2. AGE OF CONSENT TO MARRIAGE.] Any unmarried male of the age of eighteen years or upwards and any unmarried female of the age of sixteen years and upwards, and not otherwise disqualified, are capable of consenting to and consummating marriage; *Provided*, That, if the male is under twenty-one years and the female under eighteen years of age, the license provided for in this act shall not be issued without the consent of the parents or guardian, if there be any.

Approved March 9, 1891.

MILITIA.

CHAPTER 86.

MILITARY CODE.

[H. B. No. 150.]

AN ACT to Provide a Military Code for the State of North Dakota.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. WHO COMPOSE MILITIA.] All able bodied male citizens, residents of this State, being eighteen years of age and under the age of forty-five years, excepting persons exempt by law, shall be enrolled in the militia, and perform military duty in such manner not incompatible with the Constitution and Laws of the United States, as hereinafter prescribed.

§ 2. ASSESSOR MAKE LIST OF PERSONS.] It shall be the duty of the assessors of each of the counties of this State, when making the assessment of their respective counties, to make out a list containing the names of all persons in their respective counties liable to perform military duty, and file a copy of such list with the register of deeds in the county, to be by him kept as a matter of reference, and also to transmit to the Secretary of State a copy, to be by him kept as a matter of reference in his office, which copy shall be filed in the offices of the persons aforementioned on or before the first day of January in each year.

§ 3. WHEN AND HOW MILITIA CALLED INTO SERVICE.] The militia thus enrolled shall be subject to perform no active military duty, save and except in case of war, invasion, or to prevent invasion, riot or insurrection. In such case, the commander-in-chief is hereby authorized to order out, from time to time, for actual service, as many of the militia thus enrolled as necessity may require, and to provide for their organization in the manner herein-

after prescribed for the organization of volunteer militia; *Provided*, That in all such cases the organized volunteer militia shall first be ordered into service. The militia, while in active service, shall be governed by the military law of the State, and the rules and articles of war of the United States; and when any troops are in the field for the purposes aforesaid in this section, the senior ranking officer of the troops present shall take command; *Provided*, That no person shall be eligible to a command in the militia of this State, except citizens of the United States or persons having declared their intention to become such.

§ 4. NORTH DAKOTA NATIONAL GUARD—HOW COMPOSED.] The organized militia of the State shall be known as the North Dakota National Guard, and shall consist of one regiment of infantry, one Adjutant General's department, one Inspector and Judge Advocate department; one supply department; an engineer and ordnance department; a medical department, and such staff officers as may be necessary; *Provided*, That in the discretion of the Governor, a battalion of artillery and one or more troops of cavalry may be organized; *Provided, further*, That only one company, battery or troop shall be organized in a county; *Provided, further*, That this shall not affect existing organizations.

§ 5. GOVERNOR, COMMANDER-IN-CHIEF — BRIGADIER GENERAL. MAY SELECT AIDES-DE-CAMP.] The Governor of the State shall be the commander-in-chief of the militia, and may appoint as many aides-de-camp as he may deem necessary who shall have the rank of colonel. He shall have full power to appoint the adjutant general, inspector and judge advocate general, chief of supply, chief of engineers and ordnance, and officers of the medical department. He may at his discretion organize the North Dakota National Guard into a brigade, in which case he shall appoint a brigadier general to command the same. The brigadier general may select two aides-de-camp from the captains or lieutenants of the National Guard.

§ 6. COMMISSIONS, HOW ISSUED—TENOR OF.] All commissions shall be issued by the Governor, and no commissioned officer shall be removed from office except by sentence of court martial.

§ 7. HOW EQUIPPED AND ORGANIZED — MAY BE INCREASED, WHEN.] The troops of the line that may be uniformed and equipped may at the discretion of the Governor be organized into a brigade under the command of the brigadier general as senior officer, but the commander-in-chief shall have power to change the brigade organization, and in case of riot, invasion, or other imminent danger beyond the control of the civil authorities, to increase the numerical strength of existing organizations, or form new brigades, regiments and companies, as the exigencies of the service may require.

§ 8. ARTILLERY BATTALION—WHAT TO CONSIST OF.] The battalion of artillery shall consist of two batteries of two guns each, one major, one assistant surgeon with the rank of captain, one ad-

jutant and one commissary of supply, each with the rank of first lieutenant, one sergeant-major, one sergeant of supply, one hospital sergeant and one chief trumpeter; *Provided*, That two batteries are organized.

§ 9. ARTILLERY BATTERY—WHAT TO CONSIST OF.] Each battery of artillery shall consist of two guns with one captain, one first lieutenant, one second lieutenant, one first sergeant, four sergeants, four corporals, two musicians, two teamsters, not less than twenty nor more than forty privates, except as the commander-in-chief may direct; *Provided*, That two troops are organized.

§ 10. CAVALRY BATTALION—WHAT TO CONSIST OF.] The battalion of cavalry shall consist of two troops, one major, one assistant surgeon with rank of captain, one adjutant and one commissary of supply, each with rank of first lieutenant, one sergeant major, one hospital sergeant, and one chief trumpeter.

§ 12. CAVALRY TROOP—WHAT TO CONSIST OF.] Each troop of cavalry shall consist of one captain, one first lieutenant, one second lieutenant, one first sergeant, four sergeants, four corporals, two musicians, one farrier, one sadler, two teamsters, and not less than twenty nor more than forty privates, except as the commander-in-chief may direct.

§ 12. INFANTRY REGIMENTS—WHAT TO CONSIST OF.] Each regiment of infantry shall consist of ten companies, one colonel, one lieutenant colonel, one major, one surgeon with rank of major, one adjutant, one commissary of supply, one assistant surgeon and one chaplain, each with rank of captain, one sergeant major, one sergeant of supply, one hospital sergeant, one chief musician, one principal musician, one drum major, two color sergeants, and not more than twenty musicians; *Provided*, That in the discretion of the Governor the number of companies may be increased to twelve (12), and that the number of majors may be increased to three (3) in case there shall be a twelve company organization.

§ 13. INFANTRY COMPANY—WHAT TO CONSIST OF.] Each company of infantry shall consist of one captain, one first lieutenant, one second lieutenant, one first sergeant, four sergeants, four corporals, two musicians, and not less than twenty nor more than forty privates, except as the commander-in-chief may direct.

§ 14. COMMANDER-IN-CHIEF MAY DISCHARGE OR CONSOLIDATE—WHEN] Whenever any troop, battery or company shall have less than the minimum number of privates fixed for each organization, the commander-in-chief may at his discretion discharge or consolidate such organizations, and all officers and men honorably discharged under the provisions of this section shall have given them a certificate of discharge, showing length of service, which time shall be credited to them in case of re-entering the service.

§ 15. WHO MAY ENLIST IN THE NORTH DAKOTA NATIONAL GUARD.] Able-bodied men of good character and proper age may be enlisted in the National Guard for a term of three years, and

after the expiration of first enlistment they may re-enlist at any time thereafter for terms of one or more years, at their option. And any person having an honorable discharge from the regular or volunteer service of the United States, or militia of this State may on enlisting in the National Guard be credited with length of service as shown by such discharge, but no person over forty-five years of age shall be re-enlisted except with the approval of the surgeon, and no enlisted man shall leave one organization to join another unless he shall be duly transferred.

§ 16. ENLISTED MEN ENTITLED TO DISCHARGE—WHEN.] Every officer and enlisted man shall be held as in the service until properly discharged; and every enlisted man shall be entitled to and receive his discharge and certificate of service on the expiration of his term of enlistment from his immediate commanding officer.

§ 17. OFFICERS AND MEN MAY BE TRANSFERRED, WHEN—DISCHARGED, WHEN.] Officers and men moving from one location to another in the State may be transferred from one organization to another on application to the Adjutant General, approved by their respective commanding officers. Any member of the Guard moving permanently out of the State or the vicinity of the station of the organization to which he belongs, may be discharged and certificate of service furnished upon his own application, but any member of the National Guard who may move away from the vicinity of his company or other permanent headquarters, or absent himself from all duty for six months, shall, unless proper explanation is accepted by his immediate commanding officer, be dropped from the rolls without discharge or certificate of service.

§ 18. ADJUTANT GENERAL DEPARTMENT.] The adjutant general's department shall consist of one adjutant general with the rank of brigadier general.

§ 19. DUTIES OF ADJUTANT GENERAL.] The adjutant general shall keep a register of all the officers and enlisted men of the military forces of the State; he shall make a full report on or before the 1st day of December in each year to the commander-in-chief, upon the condition of the National Guard, and a detailed statement of all duty performed by them during the preceding year; he shall publish from time to time, as may be necessary, at the expense of the State, all laws, rules, regulations and orders relating to the military forces thereof, and distribute one copy to each commissioned officer and organization of the National Guard, and to such officers of the State as may be affected thereby; he shall cause to be prepared and issue all blanks, books, forms and notices required for his office, or for the use of the National Guard, and all books and forms so furnished shall be the property of the State. The established seal of the office shall be transferred to his successor in office, and all copies of papers or records in his office, duly certified and authenticated under the said seal, shall be evidence in all cases in like manner as if the originals were produced. And on the certificate of the adjutant general the Au-

ditor is hereby directed to draw his warrant on the Treasurer of the State, to be paid from the General Fund, for the expenses incurred in carrying out the provisions of this section.

§ 20. ADDITIONAL DUTIES.] The adjutant general shall in addition to his other duties, organize and conduct a "Bureau of Pensions," for the purpose of assisting ex-soldiers or sailors, residents of the State who may apply for pensions for wounds or disability incurred in the service of the United States, in establishing their claims without fee or commissions. The salary of the adjutant general shall be ten hundred dollars annually, which, with the necessary expenses incurred in conducting the bureau of pensions, office and clerk hire, furniture, fuel, lights, postage and stationery, not to exceed five hundred dollars per annum, shall be paid from the general fund by warrant drawn by the Auditor on the Treasurer of the State, on the order of the Governor.

§ 21. INSPECTOR AND JUDGE ADVOCATE GENERAL'S DEPARTMENT.] The inspector and judge advocate's department shall consist of one inspector, and judge advocate general, with the rank of colonel. He shall inspect each company, troop and department of the North Dakota National Guard at least once a year. He shall examine all officers as to their qualifications and fitness to fill the position to which they have been elected or appointed, and all officers of the North Dakota National Guard shall hereafter, before being commissioned by the Governor, have a certificate from the inspector and judge advocate general that said officer has passed a satisfactory examination, and is qualified and fit to fill the position to which he has been elected or appointed; *Provided*, That such examination shall not be deemed necessary in cases of officers appointed on the staff of commander-in-chief, or on the regimental staff. He shall make a full report on or before the first day of December in each year to the commander-in-chief upon the efficiency, discipline and general condition of each organization. He shall also perform such duties as judge advocate general as the commander-in-chief may direct. The inspector and judge advocate general shall receive actual expenses and the sum of five (5) dollars for every day actually on duty, and on the voucher of this officer, approved by the adjutant general and Governor, the Auditor is hereby directed to draw a warrant on the Treasurer of the State, to be paid from the general fund; *Provided*, That the sum so paid shall not, for each year, exceed five hundred (500) dollars.

§ 22. SUPPLY DEPARTMENT.] The supply department shall consist of one chief of supply with rank of colonel and two assistants (commissary of supply) with rank of major. The assistants shall be assigned to appropriate duties with the brigade.

§ 23. CHIEF OF SUPPLY GIVES BOND — DUTIES OF.] The chief of supply shall give a bond to the State in the sum of \$10,000 in the usual form with two sureties, each in the amount of the bond, to be approved by the commander-in-chief, for the faithful dis-

charge of his duties. He shall keep a just and true account of all expenses necessarily incurred for the military service of the State, and said accounts shall be paid on the order and approval of the commander-in-chief. He shall purchase and distribute to the National Guard all military stores and supplies authorized by law, shall pay all incidental expenses of the service, including transportation, freight, express, postage and telegrams on public business, shall pay the officers and members of the National Guard, shall furnish clothing, rations, tools, camp and garrison equipment, make contracts for and pay the rent for offices, armories, storehouses, camp grounds, and such other duties authorized by law, as he may be directed to perform by the orders of the commander-in-chief.

§ 24. ENGINEER AND ORDNANCE DEPARTMENT.] The engineer and ordnance department shall consist of one chief of engineers and ordnance, with the rank of colonel, and one assistant with the rank of major.

§ 25. DUTY OF OFFICERS.] It shall be the duty of the officers of this department to provide arms, ammunition and equipments for the National Guard, to inspect buildings, lay out camps, be inspectors of rifle practice, and to perform such other service as the commander-in-chief may direct.

§ 26. MEDICAL DEPARTMENT.] The medical department shall consist of one surgeon general with the rank of colonel, one medical purveyor with the rank of lieutenant colonel, and one apothecary and storekeeper with rank of captain; but no person shall be appointed to this department or commissioned to similar duties in this line unless he shall be a graduate of some legally incorporated schools of medicine.

§ 27. DUTIES OF.] It shall be the duty of these officers, assisted by the medical officers of the line, to provide the necessary medical supplies, and care for the sick and wounded of the National Guard when on duty, and perform such other service as the commander-in-chief may direct.

§ 28. GRADES BELOW THE RANK OF FIELD OFFICER TO BE FILLED BY ELECTION.] Every vacancy below the grade of field officer shall be filled by election, under such rules as the commander-in-chief may determine, and, in case of no election, he may appoint a suitable person to such office. The commander-in-chief shall decide all appeals in election cases under this section, and order a new election in case he deem it necessary.

§ 29. RANK DETERMINED BY DATE OF ELECTION OR APPOINTMENT.] The respective rank of all officers shall be determined by the date of their election or appointment and the length of time of service, in the North Dakota National Guard, as a commissioned officer of such rank; *Provided*, That in case of re-election or reappointment his rank shall be determined by date of first commission.

§ 30. COMMANDING OFFICERS APPOINT THEIR STAFF, HOW.]

Commanding officers of regiments or battalions shall detail their staff officers from the officers or enlisted men of their command, and appoint the non-commissioned officers of the organization by warrants. Staff officers so detailed will be dropped from the company rolls and the vacancy filled by promotion or appointment.

§ 31. COMPANY, TROOPS OR BATTERY COMMANDERS APPOINT NON-COMMISSIONED OFFICERS, HOW.] Company, troops or battery commanders shall appoint non-commissioned officers of their commands, and forward the same to regimental or battalion headquarters, where a warrant shall be issued for the same, signed by the commanding officer.

§ 32. OFFICERS TO TAKE AND SUBSCRIBE OATH.] Every officer, before entering upon the duties of his office, shall take and subscribe to an oath of allegiance to the United States and the State of North Dakota, which oath, duly executed, shall be filed in the office of the adjutant general.

§ 33. RECRUITS TO SIGN ENLISTMENT PAPERS—WHAT TO CONTAIN.] Every person recruited for the National Guard shall sign enlistment papers in triplicate, which shall contain an oath of allegiance to the United States and to the State of North Dakota, and a resume of the duties to be performed. Said oath of allegiance shall be taken before the troop, battery, company or battalion commanders, and when duly executed one copy shall be forwarded to the adjutant general's office, one copy to the headquarters of the regiment or battalion, and the other copy filed with the official records of the organization to which the recruit is assigned.

§ 34. OFFICERS AND MEN MAY BE DISCHARGED, WHEN.] Officers and enlisted men of the National Guard may be discharged for physical or mental disability on the certificate of a surgeon, and under such rules and regulations as may be determined upon, but no honorable discharge shall be given any member of the National Guard until he shall produce a certificate from his immediate commanding officer that he has returned, or satisfactorily accounted for all the money or other property of the State or any organization of the National Guard issued to him or coming into his possession, and provided, no certificate of service shall include the time any member was absent from duty without leave, which time of absence shall in no case be allowed in computing length of service.

§ 35. DRILL, DISCIPLINE AND UNIFORM.] The drill, discipline and uniform of the National Guard shall be the same as that of the army of the United States; *Provided*, That nothing in this section shall be so construed as to require companies now uniformed to supply new uniforms in the place of those now worn, until such time as it shall become necessary to provide a new uniform, which new uniform shall be the same as worn by the United States regular army. The regulations of the army, articles of war and acts of Congress of the United States shall be authority.

and govern in all cases not provided for by the laws of the State, or regulations and orders of the commander-in-chief.

§ 36. **COMMANDER-IN-CHIEF TO APPOINT BOARD OF OFFICERS TO CODIFY MILITARY LAW.]** The commander-in-chief shall, as soon after the passage of this law as practicable, appoint a board of three officers to codify the laws, articles of war, rules, regulations and orders for the government of the National Guards, which codification, approved by the Governor, shall be published to the Guard, and shall govern the same. The commander-in-chief may, however, from time to time, as he may deem expedient, change the rules and regulations, but such changes shall in no way conflict with the provisions of this act. The laws, rules, regulations and orders published and issued in this manner shall have the same force and effect as the provisions of this act.

§ 37. **ANNUAL ENCAMPMENT.]** There shall be an annual encampment, inspection and muster of all organizations of the National Guard, for at least six consecutive days, at such time and place as the commander-in-chief shall order and direct. No person shall be mustered at such time or allowed to appear as a part of the National Guard, unless he shall be duly commissioned or enlisted in the same, nor any member who does not appear uniformed, armed and equipped as required by the provisions of this act. Any officer who, knowingly or willfully shall place or cause to be placed on such muster roll the name of any person not regularly or lawfully commissioned or enlisted, or the name of any man who is dead, or has been discharged, transferred or dropped, or has lost his membership for any cause whatsoever, or one who has been convicted of a felony or has refused to do military duty for the six months immediately preceding the annual inspection, shall be deemed guilty of a misdemeanor, punishable by a fine of not less than fifty (50) nor more than one hundred (100) dollars, or he may be cashiered.

§ 38. **WHAT REQUIRED OF EACH TROOP, BATTERY OR COMPANY DURING THE YEAR.]** In addition to the annual muster and inspection, each troop, battery or company, shall be obliged to perform during the year not less than five drills, parades, musters and inspections. There shall also be not less than six additional drills, at such times as the commanding officer may determine. Other exercises may be had as the members of such organization shall prescribe in their by-laws by resolution. Any officer or man absent from any compulsory drill or parade, shall be fined or punished as fixed by the regulations.

§ 39. **POWERS OF COMMANDING OFFICER.]** The commanding officer at any parade, drill, muster or other rendezvous, may cause those under his command to perform any military duty he may require, and may place in arrest during the time of such meeting, and confine under guard if necessary, any officer or enlisted man who shall disobey the orders of his superior officer or in any way interrupt the exercises, and may remove any other person or per-

sons who shall trespass on the parade ground or armory, or in any way interrupt the orderly discharge of duty of those under arms. He shall prohibit and prevent the sale or use of all spirituous liquors, wine, ale or beer within the limits of the encampment, parade grounds or armory, and such limits shall be prescribed in orders by the officer commanding the parade or encampment, and also all hucksters, auction sales, gambling or games of chance, may at his discretion be abated as nuisances.

§ 40. TARGET PRACTICE.] To accustom the troops to the use of their arms, target practice must be encouraged. The commander-in-chief shall order such practice as the allowance of ammunition will permit, and he shall offer suitable medals, badges or trophies, to be inscribed and given in the name of the State to the persons and organizations, who upon competition shall show their superior attainments as marksmen. The provisions of this section shall be carried out under orders and regulations issued by the commander-in-chief; *Provided*, That not more than one hundred (100) dollars shall be expended in any one year for the purchase of medals, badges, or trophies.

§ 41. OFFICERS AND MEN, HOW WARNED.] For the purpose of warning the officers, non-commissioned officers and other enlisted men for any parade, encampment or place of rendezvous, the commanding officer shall issue his orders, under his hand, to such number of non-commissioned officers as he may deem necessary, requiring them respectively to warn each and every person belonging to the organization to appear at the place of rendezvous, in compliance with the order. Each non-commissioned officer, to whom such order shall be directed shall warn every person whom he shall therein be required to warn, by reading the orders, or stating the substance thereof in the hearing of such person, or by leaving a notice thereof at his usual place of abode or business, as appears by the roster, with some person of suitable age and discretion or by sending the same to him by mail, directed to him at his residence or postoffice nearest thereto. The return of service made by such non-commissioned officer, to his commanding officer, sworn to and certified, shall be good evidence on the trial of any person returned as delinquent. In cases of riot, tumult, breaches of the peace, and in aid of the civil authorities, a verbal warning or order shall be sufficient.

§ 42. WHEN MEMBER EXCUSED.] The officer ordering a rendezvous of his command may, upon good and sufficient grounds, excuse any member thereof from attendance at the same.

§ 43. POWER OF COMMANDER-IN-CHIEF IN CASE OF PUBLIC DISTURBANCE.] The commander-in-chief shall have power, in case of insurrection, invasion, or breaches of the peace, or imminent danger thereof, to order into the active service of the State any or all of the National Guard, militia or other military organizations of the State that he may deem proper, and no member thereof who shall be ordered out by proper authority for such duty shall be held

answerable by any court, nor liable to civil prosecution for any acts or acts done by them in discharge of their lawful military duty on such occasions; and in such cases the forces called into service shall receive the same pay and allowance as provided in Section 56 of this act.

§ 44. SHERIFF OR MAYOR MAY CALL OUT TROOPS, WHEN.] In case of any breach of the peace, tumult, riot or resistance to process of this State or such imminent danger thereof as will not admit of delay, it shall be lawful for any sheriff of any county, or the mayor of any city to call, in writing, under his hand and seal, for aid upon the commandant of the National Guard stationed therein or nearest thereto, and it shall be the duty of such commanding officer upon whom the call is made, to order out in aid of the civil authorities, such portion of his command, armed and equipped, as may be necessary to overcome the resistance and vindicate the supremacy of law, and he shall immediately report to the commander-in-chief all that has been done and the circumstances of the case, and the forces called into service by such orders shall receive the same pay and allowances as provided in Section 56 of this act and the amount of such pay and allowances shall be a portion of the county and city charges of said county or city from the State, to be levied and raised as other charges are levied and raised.

§ 45. MEMBER OF NATIONAL GUARD DEEMED DESERTER, WHEN.] Any member of the National Guard ordered into service under the provisions of the two preceding sections who does not appear at the time and place fixed by his commanding officer, or who does not produce a certificate from a physician in good standing of physical disability shall be deemed a deserter, and punished according to the rules and articles of war.

§ 46. ARTICLES OF WAR OF THE UNITED STATES ADOPTED, WHEN.] The articles of war governing the army of the United States, so far as they are practicable and not incompatible herewith, are hereby adopted for the government of the National Guard and militia of this State with the following exceptions: The commander-in-chief is alone authorized to order general courts martial and courts of inquiry; battalion or other superior commanders may order garrison courts martial, which are authorized to try all offenders. The maximum number of members of these courts is fixed as follows: General courts, seven members; courts of inquiry and garrison courts martial, five members. Minimum number, general courts, five members, and courts of inquiry and garrison courts, three members each, as the exigencies of the case permit.

§ 47. FINES, HOW DISPOSED OF.] Fines of offenders under the preceding section may be paid to the court or to the treasurer of the organization to which the offender or offenders belong. All fines imposed and collected shall be deposited to the credit of the

clothing and equipment fund of the organization to which the member paying the fine belongs, or if a staff officer to the General Fund of the State. A receipt for money so deposited will be forwarded for file with the proceedings of the court in such case.

§ 48. COURTS MARTIAL MAY COMPEL THE ATTENDANCE OF WITNESSES, ADMINISTER OATHS, ETC.] Any court authorized by this act shall have the same power as other courts of the State to compel the attendance of witnesses through the senior officer or president of the court, and to administer oaths to such witnesses, who shall issue subpoenas for all witnesses that may be deemed necessary by the court. He may issue attachment for the witness, and all sheriffs, jailers, and constables are hereby required to execute any precept issued by such president or court for that purpose. The person attached for non-attendance shall pay the usual fees for such service, besides the penalty provided, unless he satisfies the court that his failure to attend was excusable. Every witness not appearing in obedience to such subpoena when duly served with a copy of the same, and not having a sufficient excuse shall forfeit to the people of this State a sum not less than one (1) nor more than ten (10) dollars, to be paid and credited as fines for similar offenses before other courts of the State.

§ 49. POWER TO PUNISH FOR CONTEMPT.] Any person or persons behaving in a disrespectful manner, or using any insulting language before any military court, or to a member thereof in open court, intending to disturb or impair the authority of such court, may be punished for contempt of court by confinement in the jail of the county in which the court sits, by warrant under the hand of the president of such court. The warrant shall be directed to the sheriff, or any or either of the constables or marshals of any such county, or the officer attending the court, and shall set forth the circumstances of the offense adjudged to have been committed, and shall command the officer to whom it is directed to take the body of such person and commit him to jail of the county, there to remain without bail and in close confinement for a limited time, not to exceed three days, and until the officer's fees for committing, and the jailer's fee, be paid. Such sheriff shall obey the warrant and keep the person as directed, unless he is discharged by a judge of a court of record in the same manner and under the same rule as in cases of imprisonment under process of contempt from a court of common law jurisdiction.

§ 50. SHERIFF OF COUNTY MARSHAL OF COURT.] A military court sitting in any county shall be attended by the sheriff of the same, or some suitable person designated by him who shall be the marshal of the court and perform the usual duties of such marshals, and execute any process lawfully issued by such court, and perform all acts and duties by this act imposed on, and authorized to be performed by any sheriff, marshal or constable, and the officer ordering the court shall furnish a copy of his order to the sheriff of the county where the court is directed to meet,

which order shall be notice to the sheriff to appear, or designate some one as marshal of the court.

§ 51. CONVERSION OF MONEY BY MARSHAL—EMBEZZLEMENT—COMPENSATION OF MARSHAL.] To every marshal appointed to a military court, shall be paid two (2) dollars for every day's attendance before the court, and actual necessary traveling expenses while engaged in serving subpoenas or executing any process of the court, the same to be paid on the certificate of the president of the court as to number of days employed and other duties performed, and in like manner with other accounts of the State, but no marshal shall receive any fees from the person served, and any refusal or neglect on the part of the sheriff or marshal to execute any warrant herein required, or make return and pay over all the money collected as fines, shall subject the officer so offending to double the amount of such fines and penalties. The conversion to his own use of moneys so collected by any sheriff or marshal shall be deemed embezzlement, and punished as such in any court of the State having jurisdiction of such cases.

§ 52. FINES, HOW COLLECTED.] For the purpose of collecting fines imposed by courts marshal, the president of the courts shall within twenty days after the proceedings of the court have been approved, make a list of all the persons fined, describing them distinctly and showing the sums imposed on each person, and not paid. He shall then draw his official warrant directed to the sheriff of the county, or the marshal of the court, commanding him to levy such fine, together with the costs, on the goods and chattels of the delinquent, sale thereof to be made as provided by law, and no property shall be exempt from payment of such fines and penalties. In default of sufficient goods and chattels to satisfy the same, then such sheriff, marshal or constable shall take the body of such delinquent and confine him in the county jail, whose jailer shall keep such delinquent closely confined without bail or mainprize for two days for any fine or penalty not exceeding five (5) dollars and one additional day for every dollar above that sum, unless the fine with the costs and jailer's fees be sooner paid; but no such imprisonment shall extend beyond ten days, and the officer ordering the court may remit the fines and penalties imposed.

§ 53. WHEN MEMBERS OF GUARD REFUSE OR NEGLECT TO PAY FINE.] Any member of the National Guard fined by a general or other court martial who shall neglect or refuse to pay such fine within twenty days after the same was imposed, may be published in orders by the officer ordering the court, and dishonorably dismissed from the service without allowance of time he has served and disqualified from serving in the National Guard for three years. For offenses against the by-laws, rules and regulations of any organization any dues may be collected by court martial as provided in this act.

§ 54. ACTION AGAINST MEMBERS OF MILITARY COURT.] No.

action shall be maintained against any member of a military court on account of the imposition of a fine or penalty, or for the execution of a sentence on any person, if such person shall have been returned as delinquent, and duly summoned before such court, or shall have appeared before such court to answer the charges made against him.

§ 55. NO ACTION, WHEN.] When a suit or proceedings shall be commenced in any court by any person against any officer of the National Guard of this State for any act done by such officer in his official capacity in the discharge of any duty under this act, or against any person acting under authority or order of such officer, or by virtue of any warrant issued by him pursuant to law, the judge advocate general or some officer designated by the Governor shall appear for him, and the plaintiff in such suit may be required to file security for the payment of the costs that may be incurred by the defendant in such suit or proceedings. In case the plaintiff shall be non-suited, or have verdict or judgment rendered against him, the defendant shall recover treble costs and such attorney's fees as the court shall allow, which said fees shall in the first instance be paid by the State, and be refunded by defendant upon collection of the judgment.

§ 56. COMPENSATION OF OFFICERS AND MEN.] There shall be allowed and paid, as hereafter provided; to such officers and enlisted men as shall be ordered to attend annual encampments, in pursuance of the provisions of this act, the following sum each, for every day actually on duty, or going to and returning from the same, and the certificate of the officer ordering the duty shall be evidence of such service; that all officers and men ordered into actual service shall be paid double the amount paid by annual encampments.

To musicians, privates, and teamsters, 75 cents.

To corporals, farriers, and saddlers, \$1.

To sergeants and drum majors, \$1.15.

To first sergeants, principal musicians and chief trumpeters, \$1.25.

To sergeant majors, sergeants of supply, hospital sergeants and chief musicians, \$1.50.

To second lieutenants, \$1.75.

To first lieutenants, \$1.75.

To captains and company commanders, \$2.

To lieutenant colonels, majors, or battalion commanders, \$2.25.

To brigadier general and colonel, \$3.

To staff officers the same as officers of like grade in the line or field.

§ 57. MEMBERS OF GUARD TO PROVIDE HORSES—COMPENSATION FOR SAME.] All members of the National Guard that are required to be mounted shall provide for their own use a horse and horse equipments, but shall be allowed forage for the same when on duty, and be paid the sum of one (1) dollar for each day such

horse may be on duty in the service of the State, or as may be provided in this act. And the sums, authorized by this section, shall be paid by the chief of supply in such manner as the commander-in-chief may direct.

§ 58. COMPENSATION OF OFFICERS DETAILED ON COURTS OR UNDER ORDERS.] All officers detailed to serve on any board or commission ordered by the commander-in-chief, or on any court of inquiry, court martial or delinquency court ordered by the proper authority in pursuance of any provisions of this act, shall be paid their subsistence and actual traveling expenses, and for each and every actually employed in said board or court or engaged in the business thereof or in traveling to and from the place of meeting of said board or court, a sum equal to one day's pay for field duty.

§ 59. COMPENSATION OF OFFICERS AND MEN ON DUTY.] All officers and enlisted men of the National Guard while on duty in camp, or assembled pursuant to the order of the commander-in-chief, or the sheriff of any county, or the mayor of any city, shall receive the compensation provided in Section 56 of this act, and also their subsistence in kind, or commutation thereof, and their transportation or mileage. The rates of commutation or mileage, to be fixed by order of the commander-in-chief.

§ 60. CLOTHING AND EQUIPMENT FUND, HOW CONSTITUED.] On the certificate of the adjutant general each regimental headquarters, staff and band, battalion and staff, troop, battery or company shall be allowed annually a sum equal to seven (7) dollars for each of its officers and men present for duty, based upon the percentage present for duty, for the year at the five compulsory parades required in Section 38 of this act, and the annual muster and inspection, which percentage shall be certified to by the adjutant general, which sums together with fines and penalties collected from delinquent officers and men, shall constitute the clothing and equipment fund of such organization and the clothing and equipment purchased with this fund shall be the property of the State.

§ 61. TRANSPORTATION.] The officers and members of the National Guard shall be allowed free transportation for themselves, their horses and equipments and the property of the State, going to and returning from any service authorized or directed by law, their subsistence in kind or commutation therefor and their quarters, tents and camp equipments, and the chief of supply and the officers of his department will at all times be prepared to furnish these things as may be required by orders of the commander-in-chief.

§ 62. PROPERTY EXEMPT FROM TAXATION.] All property belonging to any organization of the North Dakota National Guard shall be exempt from taxation, or assessment for any purpose whatever, and in case any such organization shall erect or purchase an armory or assembly room, the annual rent of the same

authorized in Section 22 of this act may be paid into the treasury of such organization.

§ 63. ARMORY RENT, HOW PAID.] The commanding officer of each company, troop, or battery, and the treasurer of each regimental band, shall provide suitable room or rooms at a convenient place in the town where each organization is located or stationed with the necessary furniture, fuel, lights, drawers, lockers, closets, and gun racks, for an armory, assembly and drill room for such organization, and said room or rooms shall be under the exclusive control of the commanding officer. There shall be an annual appropriation of three hundred (300) dollars from the militia fund for the rent and furnishing of such armory or band quarters of each organization of the National Guard, to be paid by the State.

§ 64. NATIONAL GUARD EXEMPT FROM JURY DUTY AND POLL TAX.] Every member of the North Dakota National Guard shall be exempt from jury duty and from the payment of poll tax.

§ 65. MEMBERS OF NATIONAL GUARD EXEMPT FROM ARREST ON CIVIL PROCESS WHILE ON DUTY—HAVE RIGHT OF WAY ON HIGHWAY.] No person belonging to the military forces shall be arrested on any civil process while going to, remaining at, or returning from any place at which he may be required to attend for military duty. Any portion of the National Guard, performing any duty, according to law, shall have the right of way in any street or highway through which they may pass; *Provided*, The carriage of the United States mails, the legitimate functions of the police, and the progress and operations of fire engines and fire departments, shall not be interfered with thereby.

§ 66. OFFICERS TO REPORT, WHEN.] Every officer who receives arms, accoutrements, clothing, camp equipment, rations or stores of any kind for the use of his command, or for issue to troops, shall render the chief of the department furnishing the same a report or return of such supplies, according to the forms which may be prescribed, and such reports shall be furnished when called for, but not oftener than once in two months.

§ 67. MILITARY OUTFITS OR SUPPLIES CANNOT BE SOLD OR GIVEN AWAY.] The clothing, arms, military outfits, accoutrements and stores furnished by the State to the National Guard shall not be sold, bartered, exchanged, pledged, loaned or given away and the possession of any such property by any person not a member of the Guard shall be prima facie evidence of such sale, barter, exchange, pledge, loan or theft. Such property may be seized and taken from any person not authorized to keep the same, by any officer, soldier, civil or military, of the State, and shall thereupon be delivered unto any officer of the State authorized to receive the same.

§ 68. LOST OR STOLEN PROPERTY, HOW VALUED.] All property of the State that may be lost, stolen, damaged or destroyed in the military service, shall be acted upon by a disinterested in-

spector or officer, detailed as such, who shall make full investigation and report of all the facts and circumstances of the case, and if any person is found or deemed responsible for the loss or damage of the property beyond reasonable wear and tear of the services, the inspector shall assess and fix a reasonable value on the property lost, damaged or destroyed, and such person shall pay the sum so assessed into the Treasury of the State. And in event of such person's failure or neglect to reimburse the State, suit may be entered in the name of the State in any court of competent jurisdiction for the recovery of the same under such regulations as the Governor shall prescribe.

§ 69. REPEAL.] All acts and parts of acts conflicting with the provisions of this act are hereby repealed, and this act shall be known, entitled and referred to as the Military Code of the State of North Dakota, and shall take effect on and after its passage and approval.

§ 70. EMERGENCY.] An emergency exists, in this that the militia laws of the State are now in a confused condition; and it is important that there should be a complete military code established; therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 6, 1891.

CHAPTER 87.

[S. B. No. 131.]

MAINTENANCE OF STATE MILITIA.

AN ACT to Provide for the Maintenance of the Military Department as Provided in the Military Code of the State of North Dakota.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPROPRIATION.] For the purpose of carrying out the provisions of the Military Code of the State of North Dakota, there is hereby made an appropriation of \$11,000 per annum, or as much thereof as may be necessary, out of any money in the State Treasury, and all warrants against said appropriation shall be drawn by the State Auditor upon the State Treasurer, upon the certificate of the adjutant general, approved by the Governor.

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

Approved February 20, 1891.

CHAPTER 88.

[H. B. No. 97.]

ARMS FOR G. A. R. POSTS.

AN ACT Entitled An Act Empowering and Authorizing the Governor of the State of North Dakota to Furnish Arms and Equipments to all Grand Army Posts in Good Standing in the State of North Dakota.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. ARMS FOR G. A. R. POSTS, HOW SECURED.] The Governor of the State of North Dakota is hereby authorized and empowered to furnish to any Grand Army post in the State of North Dakota, not to exceed twenty-five stands of arms, when a requisition is drawn upon him by such Grand Army post, signed by the commander and at least ten members of such post, accompanied by a good and sufficient bond, signed by the proper officer, with at least two sureties, to be approved by the Governor, conditioned that said Grand Army post and the surities thereon are bound in double the value of the arms so furnished, that arms and equipments will be properly cared for and returned to the State of North Dakota, upon the call of the Governor thereof, in as good condition as when received by such post, ordinary wear and tear excepted; *Provided*, That it shall be the duty of the inspector general of the State militia to visit annually the Grand Army posts having such guns and inspect their condition, said officer to make a report to the Governor of such inspection. If the report of the said inspector general is to the effect that the said guns are not properly stored and cared for, then it shall be the duty of the Governor to recall the loan of such guns.

§ 2. EMERGENCY.] Whereas an emergency exists in that it is necessary that said arms and equipments shall be furnished long prior to July 1, 1891, therefore this act shall take effect and be in force from and after its passage and approval.

Approved February 21, 1891.

NORMAL SCHOOLS.

CHAPTER 89.

[H. B. No. 191.]

RELATING TO MANAGEMENT OF NORMAL SCHOOLS.

AN ACT to Provide for the Erection, Operation and Management of the Normal Schools of the State; and to Repeal Chapters 162 and 163, Laws of 1890, Acts Entitled Respectively: "An Act Entitled 'An Act to Provide for the Erection and Operation of a State Normal School at Mayville, Traill County, North Dakota,'" Approved February 17, 1890, and "An Act to Locate and Provide for the Government of a State Normal School at Valley City, Barnes County, North Dakota," Approved March 8, 1890.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. NORMAL SCHOOLS LOCATED.] There is hereby established and located at the city of Mayville, in the County of Traill, and State of North Dakota, a State Normal School which shall be known as the State Normal School at Mayville, and the thirty thousand acres of land set apart by the Constitution of the State of North Dakota for such institution is hereby appropriated for that purpose, under such regulations as may hereafter be provided by law. There is hereby established and located at the city of Valley City, in the County of Barnes and the State of North Dakota, a State Normal School, which shall be known as the State Normal School at Valley City, and the fifty thousand acres of land set apart by the Constitution of the State of North Dakota for such institution is hereby appropriated for that purpose, under such regulations as may hereinafter be provided by law.

§ 2. ENDOWMENT.] All proceeds accumulating in the Interest and Income Fund arising from the sale or renting of all lands granted, or hereafter to be granted, by the State of North Dakota, or by the Constitution of said State, for said Normal Schools, are hereby pledged for the establishment and maintenance of said Normal Schools.

§ 3. MANAGEMENT.] The government and management of said Normal Schools are hereby vested in a board of directors, to be known as the Board of Directors of the State Normal Schools, and in a board of management for each Normal School to be known as the Board of Management of the Normal School at Mayville, and the Board of Management of the Normal School at Valley City, respectively.

§ 4. BOARDS, HOW CONSTITUTED.] The board of management for each Normal School shall consist of five members. The Board of Directors of the State Normal Schools shall consist of twelve members, ten of whom shall be the members of the respective Boards of Management as herein provided. The Governor and State Superintendent of Public Instruction shall be *ex-officio* members of said Board of Directors. The Superintendent of Public Instruction shall act as president of the Board of Directors.

§ 5. BOARD, HOW AND WHEN APPOINTED.] The members of the Board of Directors as herein provided shall be nominated by the Governor, and by and with the consent of the Senate, shall be appointed on or before the third Monday in February of each biennial session of the Legislative Assembly; *Provided, however*, That the first Board of Directors of the State Normal School shall be composed of the members of the Boards of Directors of the respective Normal Schools appointed and acting as provided by law, at the time of the adoption of this act, and the Governor shall, immediately upon the taking effect of this act, designate which of said members shall serve for two years and which for four years as herein provided.

§ 6. TERMS OF DIRECTORS.] The Governor shall appoint, by and with the consent of the Senate, if the Legislative Assembly be then in session, otherwise without such consent, the members of the Board of Directors as herein provided. Five members shall be appointed for two years, and five for four years. Biennially thereafter five members shall be appointed for four years, by and with the consent of the Senate, on or before the third Monday in February of each biennial session of the Legislative Assembly. The Governor shall fill all vacancies by appointment for the unexpired term. The Board of Management of the Normal School at Mayville shall consist of two of the members appointed as herein provided for two years, and three for four years and their successors in office as provided herein. The Board of Management of the Normal School at Valley City shall consist of three of the members appointed as herein provided for two years and two for four years and their successors as provided herein. At the first meeting of the Board of Management of each Normal School, the members thereof shall take and subscribe the oath of office required of all civil officers of the State, and shall proceed to elect a president, who shall reside in the vicinity of such Normal School and the principal of the school shall be the secretary of the board, but shall have no vote in the board. In the absence of the principal the board may select one of their own number to act as secretary of said board; a majority of said board shall be a quorum for the transaction of business.

§ 7. COMMISSIONS—SECRETARY.] The Governor shall cause to be issued to each of said members of the Board of Directors a commission, which shall be under the seal of the State, and the

commission so issued shall designate the board of management upon which such member shall serve. At the first meeting of said Board the members thereof shall proceed to the selection and appointment of a secretary of the Board. A majority of the Board of Directors shall be a quorum for the transaction of business.

§ 8. **BOARDS, HOW KNOWN.]** The Board of Directors, as appointed by the Governor and confirmed by the Senate shall constitute and be known as the Board of Directors of the State Normal Schools provided for in this act. The board of management of the several normal schools shall consist of members of the Board of Directors of the State Normal Schools as provided in this act.

§ 9. **MEETINGS—COMPENSATION.]** The Board of Directors shall meet at Valley City and at Mayville or at Bismarck at such times each year as may be decided upon by the Board. The members of the Board shall receive no compensation for their services, except such sum or sums of money as they may pay out for actual and necessary expenses in attending said meetings of the Board of Directors or of the boards of management, or in other duties connected therewith, which sums shall be paid out of the State Treasury upon vouchers of said Board to be approved by the Auditor, who shall issue his warrant upon the Treasurer for the amount, until otherwise provided by law. The Board of Directors shall not be in session to exceed eight days in any one year nor either such board of management to exceed twelve days in any one year. The secretary of the Board of Directors shall receive such salary as shall be determined by the Board, not to exceed one hundred (100) dollars a year, and his actual expenses incurred in attending the meetings of the Board which shall be paid as herein provided for members of the Board of Directors.

§ 10. **BONDS—INTEREST ON SAME.]** To provide for the erection and maintenance of said State Normal Schools, the said Board of Directors may issue bonds for such sum or sums of money as can be actually used in the construction of permanent buildings, procuring the ground whereon to build the same, and other needed and necessary improvements to be made, and for the maintenance of each such Normal School, not exceeding the sum of twenty thousand dollars for each such Normal School, said bonds shall be in denomination of one thousand (1,000) dollars each, shall bear interest at a rate not exceeding 6 per centum per annum, and shall be payable in twenty years from date of issue from the interest and income fund belonging to the respective State Normal Schools to accumulate from the sale of lands hereinbefore appropriated, or from the rental of such lands. The interest on said bonds shall be payable annually on the first day of January of each year and shall be payable from the interest and income funds belonging to the respective State Normal Schools as herein provided; *Provided*, That if at any time there shall not be sufficient money in such fund to pay such interest there is hereby ap-

propriated out of the State Treasury, out of any funds not otherwise appropriated, a sum sufficient to meet the deficiency in the payment of such interest; *Provided, further,* That a sufficient amount of the funds accumulating in the interest and income fund of the respective Normal Schools shall be used and applied solely for the payment of the interest on such bonds and for the creation of a sinking fund with which to pay such bonds upon maturity.

§ 11. TREASURER TO KEEP FUNDS.] All moneys that may arise from the interest and income derived from the renting and sale of lands hereinbefore appropriated, and all moneys that may hereafter be appropriated by the State of North Dakota, including all moneys raised in any other manner for either such school, shall be deposited with the State Treasurer, to be by him kept in two separate funds, which shall be known as the "Fund of the State Normal School at Mayville," and the "Fund of the State Normal School at Valley City," respectively, and such funds shall be used exclusively for the benefit of said school as may be herein or hereinafter provided.

§ 12. ACCOUNTS, HOW AUDITED.] The Board of Management of the respective Normal Schools shall audit all accounts against the funds appropriated by the Legislative Assembly of the State of North Dakota, or held by the State for the use of the respective Normal Schools, and the State Auditor shall issue his warrant upon the State Treasurer for the amount of all accounts which have been so audited and allowed by the Board of Management and attested by the president and secretary of the same. The expenses of the Board of Directors, as herein provided shall be paid out of the State Treasury by warrant of the State Auditor on presentation of an itemized bill in due form, approved by the Board of Directors.

§ 13. DESIGN OF NORMAL SCHOOLS.] The design of the State Normal Schools shall be to prepare teachers in the science of education and the art of teaching public schools. The Board of Directors with the assistance of the respective faculties, shall adopt a full course of study prescribed for that purpose, which shall embrace the academic and professional studies usually taught in Normal Schools. Such schools shall, in all things, be free from sectarian control.

§ 14. DUTIES AND POWERS OF BOARDS — SUPERINTENDENT OF CONSTRUCTION.] The board of management of each Normal School shall direct the disposition of all moneys appropriated by the Legislative Assembly for current expenses for such Normal School, and shall have supervision and charge of the construction of all buildings provided for or authorized by law for said school, and shall direct the disposition of all moneys appropriated therefor or accumulating therefor as provided in this act. They shall have power to appoint one of their members superintendent of construction of all buildings, who shall receive three

(3) dollars per day for each day actually and necessarily engaged in the discharge of his duties, not to exceed fifty days in any one year, which sum shall be paid out of the State Treasury as herein provided; *Provided*, That all expenditures incurred by or under the direction of either of the boards of management as herein provided shall be audited and allowed by such board of management and the expenditures incurred by or under the direction of the Board of Directors as herein provided shall be audited and allowed by the Board of Directors of the State Normal Schools as provided in Section 12 of this act.

§ 15. SALARIES OF EMPLOYEES — REPORTS.] The board of management of each Normal School shall have the care of the buildings erected for or belonging to such Normal School. They shall have power to fix the salaries of employes, except members of the faculty, and to prescribe their respective duties, and to remove any such employe at any time. They shall at such times as may be determined upon propose to the Board of Directors of the State Normal Schools the names of principal, teachers and instructors, with the recommendation that such persons be employed by the Board of Directors as the faculty of such school. They shall, on or before the third Monday in November in each year, make an annual report to the Board of Directors, showing a statement of all expenditures of funds under their direction, the erection and care of buildings, the condition of the school, and containing such recommendations as they may think proper.

§ 16. SALARIES OF PRINCIPALS AND TEACHERS.] The Board of Directors shall fix the salaries of the principals, teachers and instructors, and shall employ the persons therefor that have been recommended by the respective boards of management, unless, in the opinion of the Board of Directors, a good and valid reason exists for refusal to employ such persons. The Board of Directors shall prescribe the time and length of the various terms of said school.

§ 17. FACULTY.] The faculty shall consist of the principal, teachers and instructors employed for each school as herein provided. They shall pass all needful rules and regulation for the government and discipline of the school, regulating the routine of labor, study, meals and the duties and exercises and all such rules and regulations as are necessary to the preservation of morals, decorum and health. They shall carry out the course of study adopted by the Board of Directors of the State Normal Schools, and shall arrange for the classification of all pupils in conformity therewith.

§ 18. DUTY OF PRINCIPAL.] The principal shall be the chief executive officer of the school, and it shall be his duty to see that all rules and regulations are executed and the subordinate officers and employes, whose duties have been prescribed as provided in Section 15 of this act, shall be under his direction and supervision.

§ 19. ANNUAL REPORT OF FACULTY.] The faculty shall, on or before the third Monday in November in each year, make an annual report to the Board of Directors, showing the general condition of the school, and containing such recommendations as the welfare of the institution demands.

§ 20. BIENNIAL REPORTS TO THE GOVERNOR.] The Board of Directors of the State Normal Schools shall make a report to the Governor on or before the first Monday in December next preceding each biennial session of the Legislative Assembly, containing the several reports of the Boards of Management and faculties herein provided for, showing the conditions of all funds appropriated for the school, the money expended and the purpose for which the same was expended in detail, and showing the condition of the Normal Schools generally. Such report shall be published in the biennial report of the Superintendent of Public Instruction in addition to other publications as provided by law.

§ 21. DIPLOMAS.] The Board of Directors of the State Normal Schools and the respective faculties of each such school shall have power to issue diplomas to all persons who shall have completed the course of study prescribed for the normal schools as herein provided, and who shall have passed a satisfactory examination under the direction of the Board of Directors, upon the studies contained in said course, and who shall be known to possess good moral character, which diploma shall set forth the above mentioned facts and shall be designated the State Normal School Diploma.

§ 22. STATE PROFESSIONAL CERTIFICATE.] Any person who is the holder of a State Normal School diploma for the State of North Dakota, as herein provided, and who can give satisfactory evidence to the State Superintendent of Public Instruction that he or she has had three years' successful experience as a teacher shall be granted by the State Superintendent of Public Instruction a State Professional Certificate, valid for life, as provided by law, and any such person who can give satisfactory evidence of one year's successful experience shall be granted a State Normal certificate, valid for five years, as provided by law. The fees for such State Teacher's certificate shall be as provided by law.

§ 23. REPEAL.] Chapter 162, Laws of 1890, entitled "An Act entitled 'An Act to provide for the erection and operation of a State Normal School at Mayville, Traill county, North Dakota,'" approved February 17, 1891, and Chapter 163, Laws of 1890, entitled "An Act to locate and provide for the government of a State Normal School at Valley City, Barnes county, North Dakota," approved March 8, 1890, are hereby repealed.

§ 24. EMERGENCY.] An emergency exists in that the Board of Directors of the State Normal Schools herein provided for should be appointed before the adjournment of the present session of the Legislative Assembly, therefore this act shall be in force from and after its passage and approval.

Approved March 7, 1891.

CHAPTER 90.

[S. B. No. 147.]

TO REIMBURSE MILNOR NORMAL SCHOOL.

AN ACT to Reimburse the Milnor Normal School, of the Town of Milnor, Sargent County, North Dakota, for Expenditures in Maintaining Said School.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPROPRIATION.] That there be appropriated, and there is hereby appropriated out of the General Fund in the State Treasury, not otherwise appropriated the sum of \$1,000, to be paid to the Milnor Normal School, of Milnor, Sargent county, North Dakota, as hereinafter provided, to reimburse said school corporation for moneys expended in maintaining said school from the 13 day of October, 1890, to the 5th day of June, 1891, both inclusive.

§ 2. MONEYS, HOW PAID OUT.] Said moneys shall be paid out in the following manner, to-wit: The board of directors of said school shall make out and file with the State Superintendent of Instruction, on or before the 1st day of July, 1891, bills of the amounts, by them actually expended in the maintenance of said school, verified by the treasurer and clerk of said board, item by item. The State Superintendent of Instruction shall examine any and all such bills so rendered, and if he shall find them just and reasonable and correct in all things, he shall file said bills, with his approval thereof in writing attached, with the State Auditor, who shall thereupon draw his order for the amounts of said bills (not to exceed the sum of \$1,000 in all), on the State Treasurer and in favor of the said treasurer of the said board of trustees of said Normal School as above provided.

§ 3. CONSTRUCTION OF ACT.] Nothing in this act shall be construed as a recognition of said school as a State Institution.

§ 4. WHEN FUNDS COVERED BACK.] All funds remaining in this appropriation, and for which warrants have not been drawn on the 10th day of July, 1891, shall be, by the State Auditor and State Treasurer, covered back into the said General Fund of the State.

§ 5. EMERGENCY.] An emergency existing in this that said school does now need and will before the 5th day of June, 1891, need a portion or all of the appropriation herein provided for, and it is necessary that this act should become a law at once, therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 7, 1891.

NOXIOUS WEEDS.

CHAPTER 91.

[H. B. No. 175.]

PREScribing MANNER OF DESTROYING NOXIOUS WEEDS.

AN ACT for the Destruction of Noxious Weeds, Providing Penalties for the Violation of the Same, and for the Repeal of An Act Entitled "An Act to Prevent the Spread of Noxious Weeds in the Territory of Dakota," General Laws of 1885, Supplement, Dakota Territory, and An Act Entitled "An Act to Amend Section 1, General Laws 1885, Supplement Relating to Noxious Weeds, Chapter 102, Session Laws of 1890."

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. NOXIOUS WEEDS DEFINED—MANNER OF DESTROYING TO BE PRESCRIBED.] Every person and every corporation shall destroy upon all lands, which any such person or corporation shall own or occupy, all weeds of the kind known as Canada thistle, cockle burr, mustard, wild oats, French weeds, (*carena fatua*) and Russian cactus (*Sobsola Colinapall*), at such time and in such manner as shall effectually prevent their bearing seed. Such time and manner of destroying such weeds shall be prescribed by the board of county commissioners, and the same shall be published at least two weeks in some newspaper in the county, not less than two weeks before the time so prescribed; *Provided, further*, That if there be no newspaper published in the county, then written notices of the same shall be posted, the same as election notices are posted in lieu of such publications.

§ 2. DECISION TO BE PUBLISHED.] It shall be the duty of the board of county commissioners, at their regular meetings in April of each year, to determine the time and manner of destroying such noxious weeds and shall cause such decision to be published as provided for in Section 1 of this act. They shall also cause to be mailed to the chairman of each board of township supervisors and to every overseer of highways and road supervisor in the county a copy of their proceedings.

§ 3. WHEN OVERSEERS SHALL DESTROY—TAX AGAINST LAND.] Whenever any individual, firm or corporation, owning or occupying any lands within this State, shall neglect or refuse to comply with the provisions of this act for more than ten days after the time prescribed by said board of county commissioners, then it shall be the duty of the overseer or road supervisors, as the case may be,

to proceed forthwith to destroy the same in the manner provided for said destruction by the board of county commissioners; it shall also be the duty of such overseers or road supervisors to destroy all such noxious weeds that may grow on the highways and school sections and timber culture claims of his road district, and for so doing such overseer or road supervisor shall have such compensation, payable out of the township treasury or county treasury, as the township board of supervisors or board of county commissioners, upon presentation of his account thereof, verified by his oath and specifying by separate items the charges on each piece of land, describing the same, shall deem reasonable, and the respective accounts so paid, except for the destruction of such weeds upon the highways, shall be placed on the next tax roll of the township or county, as the case may be, in a separate column headed, "For destruction of weeds," as a tax against the said land upon which such weeds were destroyed and be collected as other taxes, and the entry of such tax on the tax roll shall be conclusive evidence of the liability of the land so taxed to such tax.

§ 4. PENALTY.] Whenever any overseer of highways or road supervisors shall neglect or refuse to comply with the provisions of this act, after having received notice as provided for in Section 2 of this act, he shall be subject to a fine of fifty (50) dollars, and it is hereby made the duty of the states attorney to enforce the provisions of this act.

§ 5. REPEAL.] That an act entitled, "An act to prevent the spread of noxious weeds in the Territory of Dakota," General Laws of 1885, Supplement and Chapter 102, Session Laws of 1890, relating to noxious weeds, be and the same is hereby repealed.

§ 6. EMERGENCY.] Inasmuch as there is no provision for the destruction of noxious weeds, and many of said weeds will go to seed before July 1st, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 6, 1891.

PAROLING PRISONERS.

CHAPTER 92.

[S. B. No. 19.]

AUTHORIZING PAROLING OF PRISONERS.

AN ACT Entitled "An Act for Paroling Prisoners."

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. PRISONERS MAY BE PAROLED, HOW] The Board of Directors of the Penitentiary of this State, with the consent of the Governor, who shall be ex-officio president of said board when considering the parole of prisoners, shall have power to establish rules and regulations under which any prisoner, who is now or hereafter may be imprisoned under a sentence other than murder in the first or second degree, who may have served the minimum term of imprisonment provided by law for the crime for which he was convicted, and who has not previously been convicted of a felony and served a term in a penal institution, may be allowed to go upon parole outside of the buildings and enclosures, but to remain while on parole in the legal custody and under the control of the said board, and subject at any time during the remaining term of such sentence to be taken back within the custody and enclosure of said institution and full power to enforce such rules and regulations, and to retake and reimprison any convict so upon parole, is hereby conferred upon said board, whose written order, certified by its secretary, shall be a sufficient warrant for all officers named therein to authorize such officers to return to actual custody any conditionally released or paroled prisoner. And it is hereby made the duty of all officers to execute said order the same as ordinary criminal process.

§ 2. WHO MAY BE PAROLED.] No prisoner shall be so paroled unless—

First. He shall have maintained a good prison record for at least six months previous to his parole.

Second. His friends have furnished satisfactory evidence to the board, in writing, that employment has been secured for such prisoner from some responsible person, certified to be such by the judge of the county where such person resides.

Third. The board is convinced that he will conform to the rules and regulations adopted by said board.

§ 3. GROUNDS FOR RECOMMENDING PAROLE.] No prisoner shall be paroled except upon the written recommendation of the Warden and by the affirmative vote of at least four members of said board of directors, together with the approval of the Governor, and the convict's prison record and general demeanor shall constitute the only grounds for such recommendation by the Warden; and the appearing before said board of attorneys in behalf of prisoners is hereby prohibited, and petitions signed praying for the parole of prisoners shall not be taken account of by the Warden when making a recommendation to the board as provided for in this section.

§ 4. REPEAL.] All acts and parts of acts in conflict with any of the provisions of this act are hereby repealed.

Approved February 21, 1891.

PRAIRIE FIRES.

CHAPTER 93.

[S. B. No. 167.]

TO PREVENT AND PROVIDE AGAINST DAMAGE BY PRAIRIE FIRES.

AN ACT for the Prevention of Prairie Fires and to Provide Against Damage Done by Them; Also Prescribing Duties of County Commissioners in Relation Thereto.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. TOOLS AND APPLIANCES.] It shall be lawful for the county commissioners of any county in this State to provide such tools and appliances as in their judgment should be provided to to aid and assist in making firebreaks to prevent the spread of prairie fires and damage caused thereby.

§ 2. COUNTY DIVIDED INTO DISTRICTS.] The board of county commissioners shall have power to divide the county into as many districts as may in their judgment be necessary, and each district so formed shall be known and designated as fire district No. . . . ; *Provided*, That whenever practicable a road overseer residing in said fire district shall be fire warden, who shall act under his oath of office as said road overseer, and who shall in addition be required to give a bond with two good and sufficient sureties in the penal sum of five hundred (500) dollars for the faithful discharge of the duties of said fire warden.

§ 3. FIREBREAKS.] The road supervisors shall have the right, and it is hereby made their duty, that whenever in the judgment of the board of county commissioners at any regular meeting, firebreaks shall be made, to call on any and all persons liable for the payment of road poll tax in their respective districts to come forth with such tools or teams as the road supervisor may direct and work upon such firebreaks at least two days in each year.

§ 4. NOTICE TO PERSONS TO WORK ON FIREBREAKS.] The road supervisors shall give at least three days' notice to all persons liable for road poll tax and living within their respective districts, of the time and place when and where they are to appear for work on firebreaks, and with what implements. Every person warned to work may appear in person or by an able-bodied substitute, and the person or substitute shall actually work eight hours in each day. Every person notified who refuses or neglects to appear as above provided shall be fined the sum of twenty-five (25) dollars, to be collected as other fines are collected.

§ 5. DISTRICTS, HOW MAPPED OUT.] The fire warden may use his discretion and take advantage of any creek, river or other natural or artificial barrier to prairie fires, and of broken or plowed fields, and may in his judgment map out his district in any form, so that when the fireguards are made a prairie fire may be confined to the smallest possible area consistent with the amount of funds and labor available in his fire district.

§ 6. LEGAL FIREBREAK.] A strip of plowing or of burning, or partly plowed and partly burned, not less than sixty-six feet wide is hereby designated a legal firebreak or fireguard.

§ 7. WHEN PRAIRIE MAY BE SET ON FIRE.] For the purpose of making a fireguard it shall be lawful to set the prairie on fire; *Provided*, That the prairie so set on fire shall not exceed one hundred feet in width and shall be protected on each side by a strip of plowing or of burning not less than five feet wide, and at any such burning there shall not be less than four men present and prepared with water and suitable appliances to keep such fire under control.

§ 8. APPROPRIATION FOR FIREGUARDS.] The board of county commissioners are hereby authorized to expend not to exceed the sum of \$1,000 annually, from the road and bridge fund, for the purpose of constructing fireguards.

§ 9. FIRE WARDEN MAY SUMMON PERSONS TO WORK.] The fire warden shall have the power to summon all persons liable for highway tax to work the same in aiding to make fireguards, and they shall have the same credits therefor as if the work had been upon the highways. The same law as to notice and failure to work, as applies to highway work shall apply to this law.

§ 10. PENALTY FOR FAILURE TO COMPLY.] The fire warden shall have power and is hereby authorized to call out a sufficient number of men in case a prairie fire threatens any portion of his fire district, to extinguish or control said fire as far as possible

and to protect property, and any one warned out by the fire warden or under his direction and who refuses or neglects to respond, unless he renders a reasonable excuse, shall be adjudged guilty of a misdemeanor and fined not less than ten (10) dollars nor more than twenty-five (25) dollars; *Provided, however,* That any one so called out shall be given credit the same as if he performed labor on the highways.

§ 11. RAILROADS TO BURN RIGHT OF WAY.] It is hereby made the duty of every railroad company within this State that is operated by steam power as soon as possible in each year to burn or otherwise destroy all grass, weeds or other combustible matter upon the right of way of such railroad company.

§ 12. LIABILITY OF CARELESS SETTING OF FIRES.] Every person or corporation who shall willfully, negligently or carelessly set on fire, or cause to be set on fire any woods, hay, weeds or prairie grass shall be guilty of a misdemeanor, and shall, upon conviction, be fined not less than five hundred (500) dollars or by imprisonment in the county jail not more than one year, or by both such fine and imprisonment, in the discretion of the court, and shall also be liable to any person or persons or corporation damaged by such fire to the amount of such damage.

§ 13. REPEAL.] All acts or parts of acts in any manner in conflict with the provisions of this act are hereby repealed.

§ 14. EMERGENCY.] There being no adequate remedy against prairie fires and the necessity for taking legal action long before July 1st creates an emergency, therefore, this bill shall become a law from and after its passage and approval.

Approved March 9, 1891.

PUBLIC CREDIT.

CHAPTER 94.

[H. B. No. 73,]

AUTHORIZING ISSUE OF STATE FUNDING WARRANTS.

AN ACT to Amend Chapter 114 of the Session Laws, Approved March 18, 1890, Entitled An Act to Amend An Act Entitled An Act to Amend Sections 2 and 4 of Chapter 58 of the Session Laws of 1879, Entitled An Act for the Protection of the Public Credit.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 1 of an act entitled an act to amend Sections 2 and 4 of Chapter 58 of the Session Laws of

1879, entitled an act for the protection of the public credit, approved March 18, 1890, be amended to read as follows:

Sec. 1. STATE FUNDING WARRANTS ISSUED.] That Section 2 of Chapter 58 of the Session Laws of 1879 be and the same is hereby amended to read as follows: The State Treasurer, with the advice and consent of the Governor and State Auditor, is hereby authorized and directed to pay all state warrants legally issued, that may have been or may hereafter be presented to him for payment; *Provided*, The money to pay the same can be obtained at a rate of interest not to exceed 8 per cent.; and the Auditor is hereby authorized and directed to issue funding warrants in lieu of the warrants so paid, and the Treasurer is hereby authorized and directed to apply all State funds by him received and not otherwise lawfully appropriated, to the payment and cancellation of the so-called funding warrants; *Provided, further*, That nothing in this chapter shall authorize said Treasurer, nor shall said Auditor and Governor consent to issue funding warrants in excess of \$80,000, nor shall they anticipate the needs of the State for a longer period than sixty days at any one time.

§ 2. EMERGENCY.] Whereas an emergency exists in that there is no authority of law to issue funding warrants in excess of 6 per cent. interest, and there is need of additional funds to pay the current expenses of the State and the Legislative Assembly, therefore, this act shall take effect and be in force immediately upon its passage and approval.

Approved January 29, 1891.

RAILROADS.

CHAPTER 95.

[H. B. No. 200.]

AMENDING LAWS OF 1890, REGULATING COMMON CARRIERS.

AN ACT to Amend Section 6, of Chapter 122, of the General Laws of 1890, Entitled "An Act to Regulate Common Carriers and Defining Common Carriers and Defining the Duties of the Commissioners of Railroads in Relation Thereto in the State of North Dakota," and to Re-enact the Same.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 6 of Chapter 122 of the General Laws of 1890, entitled, "An act to regulate common carriers," be and the same is hereby amended to read as follows:

Sec. 6. LONG AND SHORT HAULS.] That it shall be unlawful for any common carrier, subject to the provisions of this act, to charge or receive any greater compensation on the aggregate for the transportation of passengers or like kind of property, under substantially similar circumstances and conditions, for a shorter than or a longer distance over the same line, in the same direction the shorter being included within the longer distance; but this shall not be construed as authorizing any common carrier, within the terms of this act, to charge and receive as great compensation for a shorter as for a longer distance; *Provided, however,* That upon application to the Commissioners of Railroads, such common carrier may, in special cases, after investigation by the Commissioners of Railroads, be authorized to charge less for a longer than for shorter distances of transportation of passengers or property, and the Commissioners of Railroads may from time to time prescribe the extent to which said designated common carrier may be relieved from the operation of this section of this act.
Approved March 20, 1891.

CHAPTER 96.

[S. B. No. 71.]

REGULATION OF COMMON CARRIERS.

AN ACT to Amend Subdivisions "E," "F" and "G," of Section 8 of Chapter 122, of the Laws of 1890, Pertaining to the Regulation of Common Carriers.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Subdivisions "e," "f" and "g" of Section 8 of Chapter 122, of the Laws of 1890, are hereby amended so as to read as follows:

(e.) POWER OF COMMISSIONER TO EQUALIZE TARIFFS.] That in case the commissioners shall at any time find that any part of the tariffs of rates, fares, charges or classifications so filed and published as hereinbefore provided, are in any respect unequal or unreasonable, they shall have the power and are hereby authorized and directed to compel any common carrier to change the same and adopt such rate, fare, charge or classification as said commissioners shall declare to be equal and reasonable; *Provided, however,* That before said commissioners shall finally fix and declare such rate, fare, charge or classification, it shall be the duty of the Commissioners of Railroads to serve a written notice by delivering a true copy thereof upon any agent of the Railroad Com-

pany within this State, setting forth in such notice that at a certain time and place they will proceed to fix and determine such rate, fare, charge or classification; and they shall at such time and place and as soon as practicable afford to any person, firm, corporation or common carrier who may desire it an opportunity to make an explanation or showing or to furnish information to said commissioners on the subject of determining and fixing such rate, fare, charge or classification; *Provided, further*, That the said Board [of] Commissioners of Railroads shall not make or declare any order for any purpose without first giving notice to all parties interested as provided in this subdivision.

(f) FINAL ORDER FIXING RATES—PUBLICATION OF SAME—WHEN RATES IN FORCE.] After the hearing provided for by subdivision “e” of this section the Commissioners of Railroads shall make its order finally fixing and declaring such rate, fare, charge or classification and shall immediately serve or cause to be served upon every person, firm, corporation or common carrier affected thereby, a copy of such order; in case such common carrier shall neglect or refuse for ten days after the service of such order to substitute such tariff of rates, fares and charges or classifications, or to adopt the same as fixed and declared by the Commission, it shall be the duty of said Commission to immediately publish such tariff of rates, fares, charges or classifications as they have ordered and declared to be equal and reasonable in one or more newspapers published in the county or counties through or into which the road or line may run, upon which the charges so fixed and declared by the Commission are to take effect, and to post a copy thereof in every railroad depot in the State. The newspapers in which such publication shall be made, (subject to the above condition that they shall be published in the county or counties through or into which such road or line of roads may run) and the duration of time which such notice shall be published shall be in the discretion of the Commission; but the tariff of rates, fares, charges or classifications fixed and declared by the Commission shall be in full force and effect from and after the expiration of ten days from the service upon such common carrier of the order provided in this subdivision without regard to the publication authorized by this subdivision; and after the expiration of ten days from the service of such order upon such common carrier it shall be unlawful for such common carrier to charge a higher or lower rate, fare, charge or classification than that fixed by said Commission; such order shall be *prima facie* evidence of the equality and reasonableness of the rate, fare, charge or classification fixed and declared thereby.

(g) MANDAMUS, WHEN — INJUNCTION.] If any common carrier, subject to the provisions of this act shall neglect or refuse to publish or file its schedule of classifications, rates, fares or charges or any part thereof as provided in this section, or if any common carrier shall refuse or neglect to

comply with such order made and served by such Commissioners, such common carrier shall be subject to a writ of mandamus, to be issued by any Judge of the Supreme Court, or of any of the district courts of this State upon application of the Commissioners to compel compliance with the requirements of this section, and with the order of the Commissioners, and failure to comply with the requirements of the writ of mandamus shall be punishable as and for contempt, and the Commissioners, as complainants, may also apply to any such judge for a writ of injunction against such common carrier from receiving or transporting property or passengers within this State until such common carrier shall have complied with the requirements of this section and the order of said Commissioners, and for any willful violation or failure to comply with such requirements or such order or orders of said Commissioners, the court may award such costs, including counsel fees, by way of penalty, on the return of said writs and after due deliberation thereon, as may be just.

§ 2. EMERGENCY.] The fact that there is no law requiring the notice and hearing provided by this act, and the fact that without such provision of law the Commissioners of Railroads will be hindered and delayed in the performance of their duties, create an emergency, therefore this act shall take effect and be in force immediately on its passage and approval.

Approved March 20, 1891.

CHAPTER 97.

[S. B. No. 126.]

AMENDING LAWS OF 1890, REGULATING SHIPMENTS OF LIVE STOCK AND GRAIN.

AN ACT to Amend Section 2, Chapter 124, of the General Laws of 1890, Entitled "An Act Relating to the Shipment of Live Stock and Grain."

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 2, Chapter 124, of the General Laws of 1890, entitled "An Act Relating to the Shipment of Live Stock and Grain." be amended so as to read as follows:

Sec. 2. SHIPPER'S RIGHT TO PUT MORE THAN ONE KIND OF STOCK OR GRAIN IN CAR.] Whenever any shipper shall order one or more cars from any railroad company for the transportation of stock or grain, he shall have the right and privilege to put in said car or cars two or more species of live stock or different kinds of grain and no railroad company or railroad agent shall charge for any car in which is shipped two or more species of live stock, any

greater prices than are charged when only one species of said stock is shipped therein. Nor shall said railroad agent or railroad company charge any greater sum when two or more kinds of grain are shipped in any car, than is charged when only one kind of grain which is in said car is shipped; *Provided*, That said different species of stock or kinds of grain which are placed in said car or cars do not exceed the maximum limit of pounds allowed by law and by the railroad company when only one species of live stock or one kind of grain is shipped in said car or cars; *Provided further*, That when more than one kind of stock or grain shall be shipped in the same car the highest rate may be the rate of freight to be charged; and be it *Further Provided*, That every railroad company doing business within the State of North Dakota, shall within ninety days from and after the taking effect of this act, provide and put in place at or near every intersection or junction of any of their branch lines of road, with any of their main lines of road within said State, suitable scales or weighing apparatus for the weighing of grain and other commodities in carload lots, and shall be obliged to weigh every carload lot loaded and shipped from this State when required by the shipper, and every shipper of one kind of grain shall pay a fee of fifty (50) cents for weighing each car which charge shall follow the car and be collected at its destination, shall receive from the agent in charge at any of said railroad company's intersections or junctions, a certificate, showing the weight of any such carload or carloads of grain or other commodities so weighed for them, and also the number of pounds or bushels of grain contained in each of said carload lots, which said certificate when presented to the proper agent of any of said railroad companies at the point of destination, shall entitle the owner or legal holder thereof to receive the same number of pounds or bushels of said grain so shipped. Said railroad company or companies to be liable for and to make good any loss which may occur between point of shipment and destination. Any points of difference occurring between said shippers and said railroad company or companies in regard to any of said losses shall be referred to and determined by the Commissioners of Railroads of said State of North Dakota under the rules and provisions of the laws in such cases made and provided.

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

Approved March 20, 1891.

REPORTS.

CHAPTER 9 S.

[S. B. No. 154.]

PENALTY FOR FAILURE OF CERTAIN OFFICERS TO MAKE REPORTS.

AN ACT Fixing the Penalty for Willful Neglect of Certain Officers to Make Reports, and Other Duties Required by Law, Prescribing Certain Duties of the Board of County Commissioners, and States Attorney in Relation Thereto.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. PENALTY.] Any county, city, village, civil township, school township or school district officer, who is required by law to make an official report to any other county, city, village, civil township, school township or school district officer, board, tribunal or State officer, and who shall willfully neglect to make such report, or fail to perform such official duties, shall forfeit and pay to the State of North Dakota a penalty of not less than ten (10) dollars, nor more than two hundred (200) dollars, to be recovered from such delinquent officer, or from him and the sureties upon the official bond, in a civil action, to be brought by the states attorney in any court of record having jurisdiction.

§ 2. EXAMINATION OF RECORDS.] It shall be the duty of the board of county commissioners and the states attorney in each county to examine the records of the several county officers, at the end of the officer's term of office, to see that they have been properly kept. Any failure must be remedied or it shall become the duty of the states attorney to prosecute any such officer for neglect as provided in Section 1. It shall also become the duty of the city council, board of aldermen, village trustees, civil township supervisors, school township or school district board, as the case may be, to examine the records of their several officers in a like manner, or upon complaint by the proper board, the states attorney shall prosecute as provided in this section relating to county officers.

§ 3. BLANKS TO BE FURNISHED.] It shall be the duty of the county, city, village, civil township, school township or school district officer to provide, at the expense of the county, city, vil-

lage, civil township, school township or school district, such blanks and records as are necessary for making the proper record, and the transaction of any official business connected with his office.

§ 4. REPEAL.] All acts or parts of acts in conflict with this act are hereby repealed.

Approved March 6, 1891.

CHAPTER 99.

[H. B. No. 158.]

AUTHORIZING SPECIAL REPORTS PRINTED.

AN ACT to Amend Section 20 of Chapter 119 of the Laws of 1890.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

Sec 20. SPECIAL REPORTS MAY BE PRINTED, WHEN.] There shall be printed 1,000 copies of the biennial reports of the State Auditor, Treasurer and Superintendent of Public Instruction, and 500 copies of the biennial reports of other State officers and public institutions required to make reports; and 600 copies of the biennial reports of the Commissioner of Insurance; also 1,000 copies of the biennial reports of the Commissioner of Agriculture and Labor; *Provided*, That on request of the Commissioner of Agriculture and Labor, such request to be approved by the Governor, there shall be printed separately in pamphlet form such parts of the biennial report of the said Commissioner of Agriculture and Labor, or such special papers, or articles in connection therewith, and also such crop reports or other papers or pamphlets from time to time as the said Commissioner and the Governor may jointly recommend for such separate publication; and the number of copies to be printed of each of said separate publications, crop reports or other papers, or pamphlets, shall be determined by the Commissioner of Agriculture and Labor and the Governor jointly.

EMERGENCY.] Whereas an emergency exists in that it is necessary to publish documents of importance prior to July 1st, 1891, therefore, this bill shall take effect and be in force from and after its passage and approval.

Approved March 11, 1891.

REVENUE AND TAXATION.

CHAPTER 100.

[H. B. No. 225.]

AMENDING THE ACT OF 1890.

AN ACT to Amend Chapter 132 of the Laws of 1890, Being an Act Entitled "An Act Prescribing the Mode of Making Assessments and the Levy and Collection of Taxes, and [for] Other Purposes Relative Thereto.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 5 of said chapter be amended to read as follows:

Sec. 5. PROPERTY EXEMPT.] All property described in this section to the extent herein limited shall be exempt from taxation, that is to say:

First. All public school houses, academies, colleges, institutions and seminaries of learning, with the books and furniture therein and the grounds attached to such buildings necessary to their proper occupancy, use and enjoyment, and not leased or otherwise used with a view to profit; houses used exclusively for public worship, and the lots or parts of lots upon which such houses are erected.

Second. All lands used exclusively for burying grounds or cemeteries.

Third. All property, whether real or personal, belonging exclusively to the State or to the United States.

Fourth. All buildings belonging to the counties used for holding courts, for jails, for county officers, with the ground, not exceeding in any county ten acres, on which buildings are erected.

Fifth. All lands, houses and other buildings belonging to any county, township or town used exclusively for the accommodation or support of the poor.

Sixth. All buildings belonging to institutions of purely public charity, including public hospitals, Young Men's Christian Association buildings, Grand Army halls owned by a Grand Army post, together with the land actually occupied by such institutions not leased or otherwise used with a view to profit; and all moneys and credits appropriated solely to sustaining, and belonging exclusively to such institutions, and all land owned and occupied by agricultural societies, not leased or used with a view to profit not exceeding eighty acres.

Seventh. The shares of stock in all building associations organized under the laws of this State where the loans of such association are, by the by-laws thereof, confined strictly to members of the county in which such association is located.

Eighth. All fire engines and other implements used for the extinguishment of fires, with the buildings used exclusively for the safe keeping thereof, and for the meeting of fire companies, whether belonging to any town or fire company organized therein.

Ninth. All public market houses, public squares or other public grounds, town or township houses, or halls used exclusively for public purposes, and all works, machinery or fixtures belonging to any town and used exclusively for conveying water to such town.

Tenth. All public libraries and real and personal property belonging to or connected with the same.

Eleventh. The personal property of each individual liable to assessment and taxation under the provisions of this act, of which such individual is the actual and *bona fide* owner, to an amount not exceeding two hundred (200) dollars in value; *Provided*, That each person shall list all of his personal property for taxation, and the county auditor shall deduct the amount of the exemption authorized by this section from the total amount of his assessment, and levy taxes upon the remainder.

§ 2. AMENDMENT.] That Section 18 of said Chapter amended to read as follows:

Sec. 18. DEDUCTIONS FROM CREDITS, HOW MADE.] In making up the amounts of credits which any person is required to list for himself or other person, company or corporation, he shall be entitled to deduct from the gross amount thereof the amount of all bona fide indebtedness of himself or of any such person, company or corporation; but no acknowledgement of indebtedness, not founded on actual consideration, believed when received to have been adequate, and no such acknowledgement made for the purpose of being so deducted, shall be considered a debt in the meaning of this section. Nothing in this section shall be so construed as to apply to any bank, banker, company or corporation exercising banking powers or privileges, or to authorize any deduction allowed by this section from the value of any other item of taxable property than credits; *Provided*, That grain held by the producer of the same, actually sold or contracted to be sold, but not delivered, shall be classed as credits.

§ 3. AMENDMENT.] That Section 29 of said Chapter be amended to read as follows:

Sec. 29. COUNTY AUDITOR TO FURNISH ASSESSMENT BOOKS AND BLANKS—LIST OF MORTGAGES—DUTIES OF ASSESSOR AND REGISTER OF DEEDS—MEETING OF ASSESSORS.] The county auditor shall annually provide the necessary assessment books and blanks at the expense of the county, for and to correspond with each assessment district or township. He shall make out in the real property assessment

books complete lists of all lands or lots subject to taxation (showing the names of owners if to him known, and if unknown so state it,) the number of acres and the lots or parts of lots or blocks included in each description of property. There shall be appended to each personal property assessment book a list of all mortgages or other real estate securities held, owned or controlled by the residents of the town or district, showing the names of the owners or agents, alphabetically arranged, and the amount due on each separate instrument. The assessor of each district shall notify each owner or agent in whose name such mortgage or real estate security appears on said list, of the amount due on each of such securities, and they shall be listed by such owner or agent at their true value in money; and if such securities are not owned or controlled by such person in whose name they appear, he shall so state in the list provided for in Section 15 of this Revenue Law, and the assessor shall note such fact on the list furnished by the provisions of this section. It is hereby made the duty of the register of deeds to make out such lists according to the records of his office, and deliver them to the county auditor on or before the last Saturday of March in each year. The assessment books and blanks shall be in readiness for delivery to the assessors on the last Saturday of April in each year; and the assessors shall meet on that day at the office of the county auditor for the purpose of receiving such books and blanks, and for conference with the auditor and county commissioners in reference to the performance of their duties, and the commissioners shall meet upon that day for that purpose.

§ 4. AMENDMENT.] That Section 46 of said chapter be amended to read as follows:

Sec. 46. STATE BOARD OF EQUALIZATION, HOW CONSTITUTED—MEETINGS—RULES FOR EQUALIZATION.] The Governor, State Auditor and Attorney General, with one qualified elector, not a member of any county board of equalization, from each judicial district of the State, to be appointed by the Governor, with the advice and consent of the Senate, shall constitute the State Board of Equalization. The persons so appointed shall hold their office for the term of two years from the 1st day of March succeeding their appointment, except that the term of office of the members of said Board appointed for the year 1890 shall expire March 1, 1891. The Governor shall fill all vacancies that may occur in said board by special appointment. The Governor shall be *ex-officio* president of said board, and the State Auditor shall act as secretary. The board may adjourn from day to day, and may employ such clerical assistance as may be deemed necessary to facilitate its labors. The members of said board shall receive the same per diem and mileage as may be allowed to members of the Legislative Assembly. The said board shall meet annually on the third Tuesday in August at the office of the State Auditor, and each member having taken the oath prescribed by law, they shall

examine and compare the returns of the assessment of the property in the several counties of the State, and proceed to equalize the same, so that all the taxable property in the State shall be assessed equally and at its true and full value. In the performance of their duties they shall be governed by the following rules:

First. They shall add to the aggregate valuation of the real property of every county which they believe to be valued below its true and full value in money such per centum in each case as will bring the same to its true and full value in money.

Second. They shall deduct from the aggregate valuation of the real property of every county which they believe to be valued above its true and full value such per centum in each case as will reduce the same to its true and full value in money.

Third. If they believe that the valuation of the real property of any town or district in any county, or of the real property of any county not in towns, villages or cities, should be raised or reduced without raising or reducing the other real property of such county, or without raising or reducing it in the same ratio, they may in every such case add to or take from the valuation of any one or more of such towns, villages or cities such per centum as they believe will raise or reduce the same to its true and full value in money.

Fourth. They shall add to the aggregate valuation of any class of personal property of any county, town, village or city which they believe to be valued below the true and full value thereof such per centum in each case as will raise the same to its true and full value in money.

Fifth. They shall take from the aggregate valuation of any class of personal property in any county, town, village or city which they believe to be valued above the true and full value thereof such per centum as will reduce the same to its true and full value in money.

Sixth. They shall not reduce the aggregate valuation of all the property in the State, as returned by the several county auditors, more than 1 per centum on the whole valuation thereof.

§ 5. AMENDMENT.] That Section 55 be amended to read as follows:

Sec. 55. DELINQUENT PERSONAL PROPERTY TAX—PENALTY—NOTICE OF SALE PUBLISHED, WHEN.] All unpaid personal property taxes shall be deemed delinquent on the 1st day of March next after they become due, and thereupon a penalty of 5 per cent. shall attach and be charged upon all such taxes. After the 1st day of March in each and every year the county treasurer shall immediately proceed to collect all delinquent personal property taxes, and if such taxes are not paid on demand, he shall distrain sufficient goods and chattels belonging to the person charged with such taxes, if found within the county, to pay the same, with the said penalty of 5 per cent., and all accruing costs, and shall immediately proceed to advertise the same by posting notices in

three public places in the town or district where such property is taken; *Provided*, That if the tax to be so collected amounts to the sum of fifteen (15) dollars, or over, then such property so distrained shall also be advertised in one official newspaper, if there is one published in the county. Said notices and advertisement shall give a general description of the property to be sold and state the time when and place where such property will be sold, and if the taxes for which such property is distrained and the costs which accrue thereon are not paid before the time appointed for such sale, which shall not be less than ten days after the taking of such property, such treasurer or his deputy shall proceed to sell such property at public vendue, or so much thereof as will be sufficient to pay said taxes and costs of such distress and sale; *Provided, further*, That at any time after taxes become due and whenever the county treasurer of any county in this State has reason to believe and is of the opinion that any person against whom personal property taxes have been assessed and have become due is about to remove from the county or is about to remove his or her goods, chattels or other personal property from the county in which the same are situated and have been assessed, and if in the opinion of the said county treasurer his county is in danger or is liable to lose the amount of said personal property tax so due and unpaid as aforesaid, then the said county treasurer is authorized, and it is hereby made his duty to seize, distrain and sell sufficient personal property belonging to said person forthwith to satisfy and pay the amount of personal property tax so due and unpaid against such person, together with the costs and expenses of said seizure, distress and sale, as provided by law; and be it *Further Provided*, That nothing in this section shall be construed to affect any act passed by the Second Legislative Assembly for the extension of time for paying personal or real taxes for the year 1890.

§ 6. AMENDMENT.] That Section 48 be amended to read as follows:

Sec. 48. TAXES TO BE LEVIED IN SPECIFIC AMOUNTS — RATE, HOW DETERMINED.] All county, township, town, city and school district taxes, except special taxes for local improvements in cities or villages, shall be levied or voted in specific amounts, and the rate per centum shall be determined from the amount of property as equalized by the State Board of Equalization each year. The State tax shall be levied by the State Board of Equalization at their annual meeting in August of each year, and the rate of such tax shall be certified by the State Auditor to each county auditor on or before the 15th day of September annually. In levying said tax, the State Board of Equalization shall be limited by the amount necessary to raise for the purpose of meeting the appropriations made by the Legislative Assembly and the estimated general expenses of the State, as made by the Auditor. Such levy shall be made in a specific amount and the rate shall be de-

terminated by the State Auditor; *Provided*, That if the amount is greater than the rate prescribed in the Constitution will raise, then the State Auditor shall only certify the limited rate. The county taxes shall be levied by the county commissioners at the time of their meeting in July of each year. Such taxes shall be based upon an itemized statement of the county expenses for the ensuing year, which statement shall be included in the published proceedings of said board, and no greater levy of county taxes shall be made upon the taxable property of any county than will be equal to the amount of such expenses, with an excess of 5 per centum of the same. The taxes voted by incorporated cities, villiages, townships or school districts shall be certified by the proper authorities to the county auditor within ten days after the same are levied in each year. The rate per centum of all taxes, except the State tax and such other taxes, the rates of which may be fixed by law, shall be calculated by the county auditor according to the limitations hereinafter prescribed; *Provided*, That if any county, city, town or school district shall return a greater amount than the prescribed rate will raise, then the county auditor shall only extend such amount of tax as the limited rate will produce. Any city, village, town, township, or school district officer required by law to report the amount of taxes to be levied for such city, town, township, village or school district, and neglecting or refusing to make such report within the time required by this section, shall be subject to a penalty of not less than twenty-five (25) dollars for such refusal or neglect, to be recovered on complaint of the county auditor before any court of competent jurisdiction.

§ 7. AMENDMENT.] That the following section be added to said Chapter 132, to be known as Section 110:

Sec. 110. EXECUTION OF DEED WHERE LAND IS NOT REDEEMED—FORM OF DEED.] At the expiration of the time for redemption of lands sold for delinquent taxes, as provided in Section 103 of Chapter 132 of Laws of 1890, the county auditor of the county in which the sale of lands took place shall execute to the purchaser, his heirs or assigns, in the name of the State, a deed of the land remaining unredeemed, which shall vest in the grantee an absolute estate in fee simple in such land, subject, however, to all the claims which the State may have thereon for taxes or other liens or incumbrances. Such deed shall be issued by the county auditor under the seal of the county, and shall be conclusive evidence of the truth of all the facts therein recited and *prima facie* evidence of the regularity of all the proceedings, from the valuation of the land by the assessor up to the execution of the deed. Such deed shall be substantially in the following form:

"Whereas,..... did, on the....day of....., A. D. 189..., produce to the undersigned,, auditor of the county of....., in the State of North Dakota, a certificate of purchase bearing date the....day of.....189...,

signed by....., who at the last mentioned date was auditor of said county, from which it appears that the said....., as county auditor of said county, did, in manner provided by law, on the....day of.....18..., sell to.....the following described tract or parcel of real property, to-wit: (Insert description), which property was returned delinquent for the non-payment of taxes for the year 18..., amounting to.....dollars, including interest and penalty thereon and the costs allowed by law, and was sold to.....for the sum of.....dollars, he being the highest bidder therefor.] And it appearing that.....is the legal owner of the certificate of purchase, and the time fixed by law for redeeming the land therein described having now expired, and the same not having been redeemed as provided by law, and the said.....having demanded a deed for the tract of land mentioned in said certificate, and it appearing that said land was legally liable for taxation, and had been duly assessed and properly charged on the tax lists for the year 18..., and that said land had been legally advertised for sale for delinquent taxes, and were sold on the.....day of....., 18...

"Now, THEREFORE, This indenture, made this.....day of.....18..., between the State of North Dakota, by.....Auditor of said county, party of the first part, and the said.....party of the second part,—

"WITNESSETH: That the said party of the first part for and in consideration of the premises and the sum of one (1) dollar in hand paid, hath granted, bargained and sold, and by these presents hath grant, bargain and sell and convey unto the said party of the second part,.....heirs and assigns, FOREVER, the tract or parcel, of land mentioned in said certificate and described as follows, to-wit: (Describe the land) TO HAVE AND TO HOLD said mentioned tract or parcel of land, with the appurtenances thereto belonging to the said party of the second part,.....heirs and assigns, FOREVER, in as full and ample a manner as the said Auditor of said county is empowered by law to sell the same.

"IN TESTIMONY WHEREOF, The said....., Auditor of said county of....., has hereunto set his hand and the seal of said county on the day and year aforesaid.[SEAL.]"

In case the land was bid in for the State and the certificate assigned under the provisions of Section 77, Chapter 132, Laws of 1890, the part enclosed in parentheses must be stricken out and the following inserted in lieu thereof:

"Offer for sale to the highest bidders the following described tract or parcel of real property (insert description), which property was returned delinquent for the non-payment of taxes for the year 18..., amounting to.....dollars, including interest and penalty thereon and the costs allowed by law, and no one bidding

upon such offer an amount equal to that for which said piece or parcel of land was subject to be sold, the same was bid in for the State. And it appearing by said certificate that the right, title and interest of said State to said tract or parcel of land acquired therein at said sale was on the.....day of.....18....., assigned to.....for the sum of.....dollars, being the amount due thereon at that time."

All records of sale of lands for delinquent taxes heretofore made by county treasurers prior to the year 1890 shall remain in the office of the county treasurer, and said treasurers shall make and execute the tax deeds for such sales after the time of redemption shall expire according to law.

§ 8. AMENDMENT.] That Section 68, Chapter 132, be amended to read as follows:

Sec. 68. NOTICE OF TAX SALE — FARM LANDS OFFERED IN BULK—FEES FOR PUBLISHING TAX LIST.] The county auditor, under the direction of the board of county commissioners or a majority thereof, shall give notice of the sale of real property by the publication thereof once a week for three consecutive weeks, commencing the first week in November preceding the sale, in such newspaper as may be designated for that purpose of the county, if there be one, and if there be no paper published in his county, shall give notice by a written or printed notice posted on the door of the court house or building in which courts are commonly held, or the usual place of meeting of the county commissioners, for three weeks previous to the sale. Such notice shall contain a notice that all lands on which the taxes of the preceding year (mentioning it) remain unpaid will be sold, and the time and place of sale, which time shall be the first Tuesday in the December following, and said notice must contain a list of the lands to be sold and the amount of taxes and penalty due. The auditor shall add to each description of land so advertised the sum of twelve (12) cents for each description other than town lots, and for each town lot the sum of ten (10) cents, to defray the expenses of advertising, which amount shall be paid by the county commissioners at the expiration of the sale upon the affidavit of the publisher; *Provided*, That in no case shall the property so advertised be charged for such advertising an amount exceeding the sum paid for the same; *Provided*, That before making said sale of lands on which the tax has not been paid the county auditor shall offer all lands so advertised for sale (not including town lots) for sale in bulk, and also all town lots subject to sale in bulk, and in case any person, persons or corporation shall bid the full amount of taxes, penalty, interest and cost due on all of such lands or town lots, then such auditor shall sell to the person, persons or corporations so purchasing such lands or town lots as aforesaid all of said lands or lots in bulk and shall issue certificates of sale therefor to the person, persons or corporations so purchasing in the same manner as

is in this act provided for individuals purchasing by separate tracts; but the rate of interest shall not exceed the rate of interest specified in said bid, and the persons bidding on said lands or town lots offering to take the same as the lowest rate of interest shall be considered the highest bidder; *Provided, further,* No higher rate of interest shall be allowed under the foregoing provisions than 10 per cent.

§ 9. REPEAL.] That Section 95, Chapter 132, Laws of 1890, is hereby repealed.

§ 10. AMENDMENT.] That Section 76, of Chapter 132 be amended to read as follows:

Sec. 76. TAXES FOR SUBSEQUENT YEARS, HOW LEVIED.] The taxes for subsequent years shall be levied on property so sold or bid in for the State in the same manner as though the sale had not been made; and if the purchaser or assignee of the State shall pay such taxes, the amount thereof with interest from the date of payment, after they shall have become delinquent, at the same rate as is provided upon the amount bid at the sale, shall be added to and be a part of the money necessary to be paid for redemption from sale; and the county treasurer shall, in all cases where such taxes are paid by the purchaser or assignee, prior to the return of the tax list to the auditor, write or stamp upon the face of the duplicate receipt which he is required to turn over to the auditor the words "paid by the purchaser at tax sale."

§ 11. AMENDMENT.] That the following section be added to Chapter 132.

Sec. 111. AUDITOR TO DECIDE QUESTIONS OF DISPUTE, ETC.] The Auditor of State shall hear and determine all matters of grievance relating to taxation on account of excessive valuation of property or for other cause when submitted to him with a statement of facts in the case and favorable recommendation of the commissioners and auditor of the county in which the property is situated. He shall keep a record of all cases so referred and of all decisions rendered, and upon deciding any case he shall forward a certified copy of such decision to the county auditor, who shall file the same and correct his books accordingly. He shall decide all questions that may arise in reference to the true construction of this act in accordance with the advice and opinion of the Attorney General, and such decision shall have force and effect until annulled by the judgment or decree of a court of competent jurisdiction.

Approved March 7, 1891.

CHAPTER 101.

[S. B. No. 187.]

MAKING DOGS PERSONAL PROPERTY.

AN ACT to Amend Section 160 of the Civil Code.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 160 of the Civil Code be amended so as to read as follows:

Sec. 160. There may be ownership of all inanimate things which are capable of appropriation or of manual delivery, of all domestic animals, including dogs, of all obligations, of such products of labor or skill, as the composition of an author, the good will of a business, trade marks and signs, and of rights created or granted by statute.

Approved March 6, 1891.

CHAPTER 102.

[H. B. No. 179.]

ADJUSTMENT OF DELINQUENT TAXES DUE THE STATE FROM COUNTIES.

AN ACT for the Equitable Adjustment and Settlement of the Delinquent Taxes Due to the State from the Several Counties.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. COMMISSION TO ADJUST.] The State Auditor and Public Examiner are hereby created a commission to adjust and determine the amount of delinquent taxes due to the State from the several counties, and the accounts between the State and the said counties shall be adjusted in accordance with such determination when approved by the Governor.

§ 2. STATEMENT OF TAXES CHARGED.] The State Auditor shall furnish the county commissioners of each county in the State with a statement showing the amount of State or Territorial taxes charged to such county for each year preceding the 4th day of November, 1889; also, showing the amount received by the

Territorial or State Treasurer on account of such year's taxes, and the balance still unpaid as shown by the books in his office; said statement shall also show the amount of abatements claimed and allowed, if any; and also the amount of penalty and interest paid each year.

§ 3. STATEMENT OF UNPAID TAXES.] It is hereby made the duty of the county commissioners of each county, upon receipt of the statement provided for in this act, to prepare or cause to be prepared at the expense of the county a statement of the unpaid taxes for each of the years mentioned in Section 1 of this act, showing the amount of unpaid personal property taxes, the amount of abatements remaining in the hands of the treasurer for collection or the amount stricken from the list under the provisions of Section 56, Chapter 132, Laws of 1890; also showing the amount of taxes on real property, uncollected for each year, the amount of abatements or taxes refunded each year and the reasons therefor. This statement shall be made on such forms and in such manner as may be prescribed by the commission and, as soon as completed, forwarded to the State Auditor.

§ 4. ABATEMENTS, HOW ALLOWED.] Upon the receipt of the statements provided for above, it shall be the duty of the commission to carefully compare the same with the accounts of the Territorial Treasurer, now in the Auditor's office, and if they are satisfied that the abatements claimed are just and reasonable, they may allow the same and the State Auditor shall credit each county with such abatements and notify the county auditor of each county of the adjustment as so determined, and the amount due each fund in the county, and each town, city or school district shall be determined and adjusted on the same basis.

§ 5. ABATEMENTS ALLOWED, FOR WHAT REASON.] Said Commission shall allow abatements on real property, for the following reasons, to-wit: On account of double assessments of property; on all lands assessed and taxed prior to the entry thereof according to the laws of the United States; on all lands when the taxes have been declared illegal by a court of competent jurisdiction.

§ 6. CONSOLIDATED TAX ACCOUNT.] When the true balance due from each county to the State shall have been determined, the State Auditor shall open an account with each county, and charge the balance due for each year in one account to be known as the "consolidated tax account," and all taxes collected by the counties for the years so adjusted shall be credited to said account and may be reported as collections on account of the "consolidated tax account."

§ 7. DISCREPANCIES.] Whenever any material discrepancy shall be found to exist between the statement returned from the several counties and the account as shown by the books in the State Auditor's office, the Commission may, if they deem it necessary, either in person or by some one duly authorized by them,

make an examination of the accounts and tax lists of such county and ascertain wherein the discrepancy lies, and make the adjustment in accordance with such examinations; any expense necessarily incurred under the provisions of this section shall be paid out of the General Fund of the State on the proper vouchers approved by the Governor.

§ 8. WHEN ATTORNEY GENERAL SHALL ENFORCE PAYMENT.] In the event of the refusal or neglect of any county to furnish the statement required by this act, the said Commission shall have power and are hereby authorized to have such statement made at the expense of the county, and in case of the refusal of any county to pay the expense so incurred, the Attorney General shall proceed to enforce such payment of such expense according to law.

Approved March 11, 1891.

CHAPTER 103.

[S. B. No. 35.]

CANCELLATION OF CERTAIN ILLEGAL RAILROAD TAXES.

AN ACT Entitled "An Act Providing for the Cancellation of Certain Illegal Taxes on Railroad Grant Lands upon Which the United States Survey Fees Had Not Been Paid, and Describing the Manner in Which it Shall be Done."

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. ILLEGAL TAXES, HOW CANCELLED.] That it shall be the duty of the board of county commissioners of any county, the city council of any incorporated city, the village trustees of any incorporated village, in the State of North Dakota, whenever it shall be made to appear to them by the duly verified petition or affidavit of the owner or owners of any lands, lots or parcels, or of any duly authorized agent or attorney acting for and on behalf of such owner or owners, that said lands, lots or parcels are within railroad grant lands, and that the United States survey fees on the same had not been paid prior to the passage and approval of an act passed by the United States Congress entitled "An act to provide for taxation of railroad grant lands and for other purposes," approved July 10, 1886, accompanied by the certificate of the Register or Receiver of the United States Land Office in which land district said property is situated, certifying that said lands, lots and parcels are within the railroad grant lands and that the United States survey fees had not been paid thereon prior to July 10, 1886, to at once pass a resolution,

which shall be spread on the minutes of said board, city council or village, as the case may be, to the effect that said tax so assessed on the lands, lots and parcels for the year or years, as set forth in the petition or affidavit and described therein, be and the same is ordered cancelled or satisfied; but the said board shall have no power under this act to cancel any taxes for years subsequent to 1886, and thereupon it shall be the duty of the County Auditor or county clerk, city clerk or clerk of the village, as the case may be, to forthwith transmit to the respective treasurers of said county, city or village a certified copy of said resolution and order, and the said treasurer shall thereupon at once make an entry upon the records in their respective offices cancelling said tax, together with the tax certificates, if any, held by said county, city or village; *Provided*, That the board of county commissioners, the city council and the village trustees shall have no power or authority under this act to cancel or satisfy any taxes for any year or years on any lands, lots and parcels on which there are any outstanding certificates of sale held by any person or corporation other than the county, city and village, unless the same shall have been first redeemed or paid by the said county, city and village; *Provided, further*, That nothing in this act shall authorize any person or corporation, who has paid into the treasury of any county, city or village any taxes on railroad grant lands covered by the provisions of this act, to recover back the said taxes so paid.

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

Approved March 9, 1891.

CHAPTER 104.

[H. B. No. 85.]

LEGALIZING STATE TAX LEVY OF 1890.

AN ACT to Legalize and Validate the State Tax Levy for the Year 1890, as Made by the State Board of Equalization on the 26th Day of August, A. D. 1890.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. ACTS OF BOARD OF 1890 LEGALIZED.] That the State tax levy for the year 1890, of four mills on the dollar of the assessed valuation for general State purposes, and one-half mill on the dollar of the assessed valuation for interest on the State debt, as made by the State Board of Equalization at the regular meet-

ing of said board on the 26th day of August, A. D. 1890, is hereby legalized and made valid for all intents and purposes, the same as though said tax had been levied by the Legislative Assembly as required by Section 48 of Chapter 132 of the General Laws of 1890.

§ 2. EMERGENCY.] Whereas, the First Legislative Assembly failed and neglected to make the State tax levy for the year 1890, as required by law, and the public interests require that this act should take effect long prior to the first day of July, A. D. 1891, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 11, 1891.

CHAPTER 105.

[S. B. No. 124.]

PREScribing FEES FOR FILING ARTICLES OF INCORPORATION.

AN ACT to Amend Section 1, Chapter 139, General Laws of 1890, Entitled "An Act Requiring the Payment of Fees into the State Treasury by Corporations, upon Filing Articles of Incorporation, or upon Increase of Capital Stock."

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. TAXATION OF CORPORATE STOCK—FEES.] That no corporation or association, other than those formed for religious, educational, benevolent, charitable, cemetery purposes, and building and loan association, and county mutual fire insurance companies, associations for the manufacture of dairy products, agricultural fair corporations, and any association formed for the purchase and maintenance of male animals for the improvement of stock not exceeding \$5,000 shall hereafter be created or organized under the laws of this State, unless the persons named as corporators therein, shall, at or before the filing of the articles of association or incorporation, pay into the State Treasury the sum of fifty (50) dollars for the first \$50,000 or fraction thereof of the capital stock of such corporation or association, and the further sum of five (5) dollars for every additional \$10,000 or fraction thereof of its capital stock.

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

§ 3. EMERGENCY.] The absence, in the present laws of the State of North Dakota, of speedy and adequate remedies for the

enforcement of the provisions of this act, creates an emergency which calls for the immediate taking effect of the same; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 9, 1891.

CHAPTER 106.

[S. B. No. 182.]

AUTHORIZING LEVY OF STATE TAXES.

AN ACT Authorizing the Levy of State Taxes.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. STATE TAX LEVY.] The State Board of Equalization are hereby authorized and empowered, and it shall be their duty, to levy a tax each year, at their annual meeting, for the purpose of defraying the expenses of the State, not to exceed, in any one year, four (4) mills on the dollar of the assessed valuation of all taxable property in the State, to be ascertained by the last assessment made for State and county purposes, and also to levy a tax, not to exceed three-fourths ($\frac{3}{4}$) of one mill on the dollar, to pay the interest on the State debt.

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

Approved March 9, 1891.

CHAPTER 107.

[H. B. No. 29.]

EXTENSION OF TIME FOR PAYMENT OF PERSONAL TAXES OF 1890.

AN ACT Providing for Extension of the Time for the Payment of the Taxes for the Year 1890.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. TAXES, WHEN DELINQUENT.] That all unpaid personal property taxes for the year 1890 shall become delinquent on the 1st day of March, 1891, and real estate taxes become delinquent on

the 1st day of June, 1891, and shall draw interest at the rate of 1 per cent. per month from date of such delinquency until the 15th day of October, 1891, at which latter date there shall be added as a penalty 5 per cent. upon the amount remaining unpaid and 1 per cent. per month thereafter until paid, to be added on the first day of each succeeding month.

§ 2. DISTRESS AND SALE POSTPONED.] The county treasurers of the counties of the State of North Dakota shall not proceed to collect by distress and sale any of the taxes hereinbefore referred to until after the 15th day of October, 1891; *Provided*, That in case any person having personal property assessed and upon which the taxes are unpaid shall, in the opinion of the county treasurer, be about to move out of the county or dispose of such property, it shall be the duty of such treasurer to collect such taxes at any time after the tax duplicate has been placed in his hands as provided by law.

§ 3. REPEAL.] All acts or parts of acts in conflict herewith are hereby repealed.

§ 4. EMERGENCY.] An emergency existing, in that by general law the 5 per cent. penalty on delinquent taxes is added on the 1st day of March and June of each year and all personal property taxes can then be collected by distress sale, and it is necessary that this act take effect and become operative at a time long prior to July 1 next; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved February 28, 1891.

CHAPTER 108.

[S. B. No. 24.]

POWER OF COUNTY TO DISPOSE OF REAL ESTATE BID IN FOR DELINQUENT TAXES.

AN ACT Giving Power to County Commissioner to Dispose of Real Estate Bid in, in the Name of the County at Tax Sales.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. REAL ESTATE, HOW DISPOSED OF.] All the real estate bid in by the county treasurer at any former tax sale in the name of the county, and the county having received a tax deed for same, may be disposed of by the board of county commissioners at any regular meeting of such board.

§ 2. APPLICATION FOR PURCHASE.] Any person may make application to the county auditor for the purchase of any parcel, lot or piece of land, which was bid in by the county treasurer at

any tax sale and for which the county holds a tax deed. Such application must state description of the property which applicant wishes to purchase and the price he (or she) wishes to pay for same. Such price shall not be less than the price for which the real estate was bid in at the time of tax sale and cost of sale included.

§ 3. APPLICATION PRESENTED TO BOARD.] The county auditor shall present such application to the board of county commissioners at their next regular meeting and any such bid may be accepted or rejected by said board, as in their judgment may be proper, or said board may demand the prices for which the real estate was bid in, with 12 per cent. interest per annum, or said board may compromise upon a price, but under no circumstance shall any real estate be disposed of for less than the price said real estate was bid in at the time of sale, cost of sale included.

§ 4. WHEN PURCHASER SHALL PAY.] After the board of county commissioners having accepted an offer from a bidder or have agreed upon a price, the purchaser shall pay to the county treasurer such sum as agreed upon and deliver to the county auditor the treasurer's receipt therefor.

§ 5. AUDITOR TO FILE RECEIPT AND DELIVER DEED.] The auditor shall file the receipt in his office and charge the amount to the treasurer, which amount shall be credited to the general county fund, and said auditor shall make out and deliver to the purchaser a quit claim deed in the following form: Whereas has paid on the....day of..... A. D....., to the treasurer of..... county, N. D. the sum of \$..... now, therefore, in consideration of the above named sum, the county of does hereby release, assign and quit-claim all right, title and interest it may have acquired by a certain tax deed for the taxes of the year in and to the following described real estate, situated and being in the county of and state of North Dakota, described as follows; to have and to hold the above named premises, with all the appurtenances thereunto belonging or in anywise appertaining to said ..h.... heirs and assigns forever. Dated this.... day of....., 18....

.....
County Auditor.

§ 6. DEED, HOW EXECUTED.] Such deed shall be executed and acknowledged by the chairman of the board of county commissioners and attested by the county auditor.

§ 7. AUDITOR'S FEES.] The auditor shall be entitled to a fee of 25 cents for the making of each deed. The purchaser can demand several parcels in one deed, and in that case the county auditor shall be entitled to a fee of 25 cents for the first parcel and 10 cents for each additional parcel, the purchaser to pay said auditor's fees and costs of acknowledgement.

Approved February 25, 1891.

CHAPTER 109.

[S. B. No. 11.]

LEGALIZING ACTS OF STATE BOARD OF CANVASSERS.

AN ACT to Legalize the Action of the Governor, Chief Justice and Secretary of State Acting as a State Board of Canvassers.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. ACTS LEGALIZED.] That the action taken by the Governor, Chief Justice and Secretary of State as a canvassing board for the State and congressional officers, December the 11th, 1890, be and the same is hereby legalized and made valid in every respect.

Sec. 2. EMERGENCY.] An emergency existing by reason of the fact that there is now no law constituting a State Board of Canvassers; therefore this act shall take effect and be in force from and after its passage and approval.

Approved February 16, 1891

SEED GRAIN.

CHAPTER 110.

[H. B. No. 106.]

AMENDING LAW OF 1890.

AN ACT to Amend Section 6 of an Act Entitled An Act Authorizing Counties to Procure Seed Grain for Needy Farmers Resident Therein, Chapter 152 of the Session Laws of North Dakota, 1890, and to Re-Enact the Same as so Amended.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 6, Chapter 152 of the Session Laws of 1890 be amended to read as follows:

Sec. 6. TAX BOARD MAY ISSUE WARRANTS INSTEAD OF BONDS, WHEN.] For the purpose of securing prompt payment of the principal and the interest of the said bonds, there shall be levied by the board of county commissioners at the time and in the

manner other taxes are levied, such sums as shall be sufficient to pay such interest, and in addition thereto, a sinking fund tax shall be annually levied, sufficient to pay and retire said bonds at their maturity, and it shall be the duty of the county treasurer to pay promptly the interest upon said bonds as the same shall fall due. The board of county commissioners of any county which has availed itself of the provisions of this act, if such levy to pay said interest and create said sinking fund, as provided above, has been made, shall have the power to apply any surplus of money remaining in their hands from sale of said bonds after fulfilling the requirements of this act to the discharge of any other indebtedness in the county, evidenced by bonds or warrants. *Provided, further,* That nothing in this amendment shall be construed to prevent said commissioners, in their discretion, from using said money for the purposes of purchasing seed grain under the regulations of this act. No tax or fund provided for the payment of such bonds, either principal or interest, shall at time be used for any other purpose; *Provided, however,* That the board of county commissioners may deposit any part or portion of the sinking fund herein provided for, in any bank furnishing satisfactory security in the State of North Dakota, which shall furnish to the county a bond of indemnity to be approved by the board, and receive interest on the same, which shall be credited to the sinking fund. It shall be the duty of the treasurer when said bonds, or any coupons attached thereto are paid, to cancel the same by writing upon the face thereof the word "paid" and the date of payment. Before the bonds are delivered to the purchaser the treasurer of the county shall register them in a book to be provided for that purpose, known as the bond register, in which register he shall enter the number of each bond, its date, date of maturity, amount, rate of interest, to whom, and where payable; *Provided,* That such treasurer shall receive a per centum, at the discretion of the board of county commissioners, not to exceed 1 per cent. for the receiving and disbursing of the amount received from the sale of said bonds, said per centum to be covered into the treasury as a part of the salary fund. The board of county commissioners may issue warrants instead of bonds, if in their judgment the best interests of the county are thereby served; *Provided,* That such warrants shall not be issued in any amount to exceed \$3,000.

§ 2. EMERGENCY.] Whereas, an emergency exists, that there is no provision of law for the disposal of the balance mentioned in this amendment, this act shall take effect immediately from and after its passage and approval.

Approved February 26, 1891.

CHAPTER 111.

[H. B. No. 198.]

AMENDING LAW PROVIDING LIENS FOR PURCHASE OF SEED
GRAIN.

AN ACT to Amend Sections 1 and 7 of Chapter 150 of the Laws of 1890, Being an Act Entitled "An Act to Provide for Liens upon Crops and for the Levy of a Tax to Secure the Payment of the Purchase Price of Seed Grain."

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1 AMENDMENT.] That Section 1 of Chapter 150 of the Laws of 1890, be amended to read as follows:

Section 1. HOW LIEN MAY BE HAD—PRIORITY OF LIEN.] It shall be lawful for any person desiring to purchase, upon credit, any seed grain, to be sown or planted upon lands within this State, to enter into a contract in manner and form as hereafter provided, with any person, co-partnership, association or corporation furnishing such seed grain, that such person, co-partnership, association or corporation, as the case may be, shall have a first lien upon the crops of grain produced from such seed grain to secure the payment of the indebtedness incurred therefor, and that in case such indebtedness be not paid at the time it shall become due and payable according to the terms of the contract that the amount thereof, with accrued interest, may be levied as a tax upon the real and personal property of the person applying for and receiving such seed grain, as hereinafter provided, and that the said lien may be foreclosed by a sale of the grain embraced in said lien upon the notice and in the manner provided by law for the foreclosure of chattel mortgages, and the costs and fees for foreclosing shall be the same.

§ 2. AMENDMENT.] That Section 7 of Chapter 150 be amended so as to read as follows:

Sec. 7. RIGHT OF POSSESSION OF CROP IN PARTY FURNISHING SEED.] Upon the filing of such application in the office of the register of deeds and the sowing of the seed obtained thereunder, the title and right of possession to the growing crop, and to the grain produced from said seed, shall be in the party who shall have furnished the seed, until the debt incurred for said seed shall have been paid, and any seizure thereof or interference therewith, except by the applicant and those in his employ, for the purpose of harvesting and threshing the same, shall be deemed a conversion thereof and treble damages may be recovered against the

person so converting the same by the party furnishing the seed or his assigns.

§ 3. REPEAL.] All acts or parts of acts in conflict herewith are hereby repealed.

§ 4. EMERGENCY.] Whereas an emergency exists in the fact that it is necessary that this act should take effect immediately in order to carry out and effect the purposes for which it is intended, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 11, 1891.

CHAPTER 112.

[H. B. No. 113.]

AMENDING SEED GRAIN LAW.

AN ACT to Amend Section 11 and 13 of Chapters 152 of the Session Laws of 1890, Entitled "An Act Authorizing Counties to Issue Bonds to Procure Seed Grain for Needy Farmers Resident Therein and to Repeal Section 12 of the Same Act."

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT. That Section 11 of Chapter 152, of the Session Laws of 1890 be amended to read as follows:

Sec. 11. LIENS UPON CROPS.] Upon filing the contracts provided for in Section 10, the county shall acquire a just and valid lien upon the crops of grain raised each year by the persons receiving seed grain to the amount of the sum then due the county upon said contracts, as against all creditors, purchasers or mortgagees, whether in good faith or otherwise; and the filing of said contract shall be held and considered to be full and sufficient notice to all parties of the existence and extent of said lien which shall continue in force until the amount covered by said contract is fully paid. For the purpose of enforcing such lien the states attorney may proceed to foreclose said lien in the name of the county commissioners in the same manner that chattle mortgages are foreclosed, as provided by law, when requested so to do by said county commissioners.

Sec. 2. AMENDMENT.] That Section 13 of Chapter 152 be amended to read as follows:

§ 13. PENALTY FOR SELLING SEED GRAIN—CONVERSION DEFINED.] Any person or persons who shall contrary to the provisions of this act, sell, transfer take or carry away or in any manner dispose of the seed grain or any part thereof, furnished

by the county under this act, or shall use or dispose of said seed grain or any part thereof, for any other purpose than that of planting or sowing the same as stated in his application, or shall sell, transfer, take or carry away, or in any manner dispose of the crop or any part thereof, produced from the sowing or planting of said seed grain, shall be guilty of a misdemeanor and upon conviction thereof shall pay a fine of not less than ten (10) dollars nor more than one hundred (100) dollars, or may be imprisoned in the county jail for a term of not less than ninety days, and shall pay all costs of prosecution and whoever, under any of the provisions herein, shall be found guilty of false swearing shall be deemed to have committed perjury, and shall upon conviction suffer the pains and penalties of that crime. Upon the filing of said application in the office of the register of deeds, and the sowing of the seed obtained thereunder, the title and right of possession to the growing crop and to the grain produced from said seed shall be in the county which shall have furnished the seed until the debt incurred for said seed shall have been paid, and any seizure thereof or interference therewith except by the applicant and those in his employ for the purpose of harvesting and threshing the same shall be deemed a conversion thereof, and treble damages may be recovered against the person so converting the same by the county furnishing the same.

§ 3. REPEAL.] That Section 12 of Chapter 152 of the Session Laws of 1890 is hereby repealed.

§ 4. EMERGENCY.] Whereas, an emergency exists, in that there is no provision for the foreclosure of seed liens by the board of county commissioners, where the counties have furnished seed grain, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 11, 1891.

CHAPTER 113.

[S. B. No. 163.]

AMENDING ACT OF 1890 AUTHORIZING COUNTIES TO ISSUE BONDS FOR SEED GRAIN.

AN ACT to Amend Section 18, of Chapter 152, Entitled "An Act Authorizing Counties to Issue Bonds to Procure Seed Grain for Needy Farmers Resident Therein," Approved February 14, 1891.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1 AMENDMENT.] That Section 18 be amended so as to read as follows:

Sec. 18. OPTION.] Said board may at any time, with the concurrence of the owners thereof, pay and retire any of the bonds

under the provisions of this act out of the funds provided for that purpose at not more than the par value thereof and accrued interest, and a premium of not exceeding 3 per cent. per annum; *Provided*, That should there at any time be in the treasury to the credit of such sinking fund an amount equal to 70 per cent. or more of the par value of all bonds issued in any year under this act, said board of county commissioners may and they are hereby authorized to issue county warrants to an amount equal to 30 per cent. or fraction thereof of such outstanding bonds, such warrants to be sold at not less than par, and the proceeds placed to the credit of such sinking fund; whereupon the board of county commissioners may pay and retire all such bonds; *Provided, further*, That all subsequent collections on account of such sinking fund, shall be transferred to county fund.

§ 2. EMERGENCY.] An emergency exists in that some of the counties have in their treasuries, a sum equal to the requirements of this act, and are desirous of taking steps at once to redeem such bonds, therefore this act shall take effect immediately after its passage and approval.

Approved March 9, 1891.

STATISTICS.

CHAPTER 114.

[S. B. No. 189.]

PROVIDING FOR COLLECTION AND COMPILATION OF STATISTICS OF THE STATE.

AN ACT to Provide for the Collection and Compilation of the Statistics of the State of North Dakota.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. ASSESSORS FURNISH STATISTICS.] That it shall be the duty of the several county, township, town and city assessors of the State of North Dakota, at the time of taking lists of property for taxation each year, to require each person, firm, company any corporation in his county, district, township, town, city or ward to make a statistical statement of facts relating to agricul-

ture, horticulture, stock raising and such other subjects as may be required by the State Statistician, in the manner provided for in this act and specified in the instructions which shall be given by the State Statistician; and the said assessor shall make such other statistical returns, not herein mentioned, as may be required by the State Statistician, of and through the county auditors, or in counties that have no auditors, then the county clerks; and each assessor shall make a return of such statements, in tabulated form, to the county auditor or clerk of his county, at the time of returning the lists of property for taxation. The said statistical statement, required by this section, shall be made under oath by the persons or by the managers or agents of the firms, companies or corporations; and if any such persons or managers or agents shall refuse or neglect to make such statement under oath, it shall be the duty of the assessor to obtain such information to the best of his ability, from neighbors or others that may be supposed to be best prepared to furnish it, which information, so obtained, the assessor shall indicate how procured and whether he has reason to believe the same to be reliable. The said assessor shall also make an alphabetical list of the names of the parties so refusing to make such statistical statement, with their postoffice addresses and the section, town and range in which they reside, or in case they or any of them reside in a town or city, the street and number where they reside shall be given, which list the assessor shall return to the county auditor or clerk with the statistical returns of his township, district, town or city.

§ 2. WHAT STATISTICAL STATEMENT SHALL CONTAIN.] The statistical statement mentioned in the foregoing section shall contain, among other things, answers properly classified to the following questions: "What is the number of farms; the number of acres cultivated (or to be cultivated) to each crop for the current year, together with the acreage and product, for the year immediately preceding, of wheat, oats, barley, flax, corn, rye, potatoes, cultivated and wild hay, and other farm produce. The number of mules, horses, milch cows and other cattle, sheep and hogs subdivided into the breeds or classes to which they belong; the number of pounds of wool clipped, and the dairy products for the past year. The number and kinds of trees growing in cultivated or planted forests; the number of nurseries and the acreage of each; the number and kind of fruit trees, berries, vines, etc., and the orchard products for the preceding year. The male and female population of each county, township, town and city, and the number of blind, deaf and dumb, insane and idiotic in each assessor's district."

§ 3. STATISTICS, HOW OBTAINED.] Each assessor shall perform the service required of him by a personal visit to each dwelling house and to each family in his township, district, town or city, and shall ascertain by inquiries made of some member of each family, if any one can be found capable of giving the infor-

mation, but if not, then to the agents of such family, and if the agents cannot be found, then he shall obtain the information specified in this act from the most reliable source; and he shall visit personally the farms, shops and other places in the district, respecting which information is required, as specified on the blanks furnished by the State Statistician, and he shall obtain all such information from the best and most reliable sources.

§ 4. BLANKS FOR STATISTICS, HOW PROCURED.] The county auditor or clerk of each county shall furnish to the county, township, town and city assessors of his county such blanks as may be necessary for taking the aforesaid statements, which said blanks shall be furnished by the State Statistician to the county auditors or clerks, together with printed instruction defining and explaining the duties of the assessor in collecting the statistics required by this act; and the county auditors or clerks shall, within thirty days after the aforesaid statements are returned to them by the assessors, make out in duplicate a tabular statement thereof, by assessors' districts, properly verified, one copy of which shall be preserved in the office of the auditor or clerk and the other copy forwarded to the State Statistician. In case the tabular statement aforesaid from any county shall not be received by the State Statistician by the 15th day of August of any year, the said State Statistician shall notify in writing the said auditor or clerk of such delinquency and shall cite him this section of law requiring such statement. If the said auditor or clerk still refuse or neglect to prepare and forward such statement until the 15th day of September, it is in that event hereby made the duty of the State Statistician to report the case to the Attorney General, who shall at once proceed to enforce the penalties provided in Section 6 of this act.

§ 5. COMPENSATION.] The services herein required of the several assessors of the State shall be performed at the same time that they perform their services under the general assessment laws and in connection therewith. They shall not be allowed for such services separately, but for the time employed in collecting the statistical information herein provided for and for the taking of the general assessment they shall be allowed and paid as for one and same service; and the county, township, town and city assessors shall be paid in the same manner and shall receive the same pro rata per diem for the discharge of the services required by this act as is now or shall hereafter be provided for taking a list of property for assessment purposes; *Provided*, That an assessor shall receive no part of any pay for his services as assessor, except on certificate of the county auditor or clerk that he has fully complied with the requirements of this act; and it is hereby made the duty of the county auditor or clerk, when any county, township, town or city assessor fails to make proper and complete return of the statistics required by this act and by the State Statistician to withhold the said

certificate until the work is fully and properly completed, and to return forthwith the blanks to the said assessor, clearly indicating to him the deficiencies in the said statistics and what is needed by way of correction, and shall specify a reasonable time in which the said assessor shall fully complete the work and return the same to the said county auditor or clerk. It shall then be the duty of the said assessor to immediately carry out the instructions of the auditor or clerk and return the statistics completed within the time prescribed. In case of his failure to comply with said requirements the said assessor shall forfeit all compensation and be subject to the penalties prescribed in Section 6 of this act; and it is hereby made the duty of the county auditor or clerk to enter complaint against the said assessor, which shall be prosecuted in the name of the State of North Dakota by the state attorney for the county wherein such failure to collect statistics occurs; and any judgment or penalty so recovered against any such assessor shall become a lien against all real and personal property at the time owned or thereafter owned by such assessor. On the failure of any assessor to complete and return his statistics to the auditor or clerk within the time prescribed after they have been returned to him by the said auditor or clerk with the proper instructions for completion, it shall be the duty of the said county auditor or clerk, and he is hereby so empowered, to appoint some suitable person to collect or complete the statistics for the district, township, town or city in question, and such appointee shall properly perform the work as provided in the case of the regularly chosen assessor, and shall be entitled to compensation at the same rate as provided for assessors, and shall be paid in the same manner. The failure of any county auditor or clerk to require the complete performance of duty by assessors, as herein provided, or to enter complaint against any assessor who shall fail to perform his duty, as herein provided, shall be construed as a misdemeanor and shall subject the auditor or clerk so offending to the penalties prescribed in Section 6 of this act.

§ 6. PENALTIES.] Any county, township, town or city assessor, or county auditor or clerk, who shall willfully neglect or refuse in whole or in part, to perform the duties required in this act, shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined in a sum not less than twenty (20) dollars nor more than one hundred (100) dollars.

§ 7. COUNTY OFFICERS TO FURNISH STATISTICS.] The county auditor or clerk of each county shall furnish to the State Statistician, upon request of the said Statistician, from the county records such information regarding the county, its financial condition, products and other statistical matter as may be requested on blanks furnished by the said Statistician, and the refusal or neglect of any auditor or clerk to furnish such information within thirty days from the receipt of such request from the Statistician shall be construed as a misdemeanor and shall subject the auditor

or clerk so offending to the penalties prescribed in Section 6 of this act.

§ 8. DUTY OF STATE STATISTICIAN.] The State Statistician is hereby required to carry into effect the provisions of this act relating to the collection and compilation annually of the statistical data herein described, and he shall cause the returns, when received, to be arranged, classified and published in the best and most convenient manner in order to exhibit the annual growth and development of each county and of the State.

§ 9. EXPENSES PAID BY STATE.] The expenses incurred in procuring and furnishing the necessary blanks, stationery and postage and compiling and publishing the statistical information as required by this act shall be paid by the State Treasurer on the warrant of the State Auditor, which shall be issued on the presentation of the sworn expense account of the State Statistician when approved by the Governor.

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

§ 11. EMERGENCY.] Whereas an emergency exists in that it is necessary that this act take effect at once in order that the duties herein required may be preformed for the year 1891 in accordance with the provisions hereof, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 9, 1891.

CHAPTER 115.

[H. B. No. 156.]

DUTIES OF COMMISSIONER OF AGRICULTURE AND LABOR.

AN ACT to Amend Chapter 46 of the Laws of 1890.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 2 of Chapter 46 of the Laws of 1890 be and the same is hereby amended to read as follows:

Sec. 2. DUTY OF ALL OFFICIALS TO FURNISH CERTAIN INFORMATION—PENALTY.] It shall be the duty of all State, county and precinct officers to furnish upon the written request of the Commissioner all the information in their power necessary to assist in carrying out the objects of this act. For the purpose of obtaining statistics relating to manufactures and mining, the Commissioner shall procure in the manner that may seem best to him, the names and addresses of all the manufacturers and mine owners

and operators in the State and shall transmit by mail to each owner, operator or manager of each shop, mill, manufacturing establishment or mine, not later than the 1st day of July of each year, suitable prepared blanks, embodying inquiries into the subjects upon which the Commissioner is required or authorized to prepare statistics, which blanks shall be filled out complete and returned to the Commissioner not later than the 1st day of August following. The information so obtained shall be preserved, systematized and tabulated by the Commissioner, but no information concerning the business or affairs of any individual, firm, company or corporation shall be divulged or in any manner made public by the Commissioner or any one in the employ of his office, and any violation of this provision shall subject the party violating to a fine of not more than five hundred (500) dollars or to imprisonment for not more than one year or both such fine and imprisonment. The refusal or neglect of any such owner, operator or manager of any shop, mill, manufacturing establishment or mine to supply the information asked by the Commissioner within the time designated shall be construed as a violation of Section 3 of this act, and shall subject the party so offending to the penalties therein prescribed; *Provided*, That no prosecution shall be begun against such parties for such neglect or refusal until at least twenty days after a second notice and blank shall have been mailed them by the Commissioner. And not more than 2,500 copies of the printed report shall be furnished to the Commissioner for free distribution to the public.

§ 2. AMENDMENT.] That Section 3 of said Chapter 46 of the Laws of 1890, be and the same is hereby amended to read as follows:

Sec. 3. PENALTY FOR OBSTRUCTING COMMISSIONER.] Any person who willfully impedes or obstructs the commissioner in the full and free performance of his duties, shall be guilty of a misdemeanor and upon conviction shall be fined not less than ten (10) dollars nor more than fifty (50) dollars, or imprisonment not less than seven nor more than thirty days in the county jail or both. The refusal or neglect of any person for himself or for any person, firm, company or corporation of which he may be a member or agent to furnish the information or statistical statement required under Chapter 15 of the Laws of 1889, to be furnished to assessors shall be construed to be a violation of the provisions of this section, and it is hereby made the duty of the county auditor to report such violation with the names and postoffice addresses and places of residence of the violators as furnished him by the assessors to the states attorney for the county in which such violations occur, and the said states attorney shall forthwith proceed to enforce the penalties provided in this section against such persons; and he is hereby authorized to subpoena the assessor and such other witnesses as may be necessary and to procure the assessor's returns in evidence.

§ 3. AMENDMENT.] That Section 10 of said Chapter 46 of the Laws of 1890 be and the same is hereby amended to read as follows:

Sec. 10. DUTY OF COMMISSIONER.] The Commissioner shall be the State Statistician; it shall be his duty to obtain from county and township assessors and other officers of the organized counties of the State and to collate and prepare in tabulated form for reference statistics showing county, township and other municipal indebtedness of all kinds, the assessed valuation of real and personal property, and he shall also ascertain the amount of mortgage indebtedness and assessed value of real property owned by citizens as distinguished from corporations; the acreage in wheat, corn, and other kinds of grain; the number of cattle, horses, hogs and other live stock, and the population, vital statistics and all other information pertaining to and showing the condition, growth and development of the State by counties. The Commissioner of Agriculture and Labor may call upon the Attorney General for such assistance as to him may seem necessary in the preparation of such blanks as may be needed for procuring the statistics contemplated in this act, and it is hereby made the duty of the Attorney General to render such assistance.

§ 4. AMENDMENT.] That Section 11 of said Chapter 46 of the Laws of 1890 be and the same is hereby amended to read as follows:

Sec. 11. REPORTS OF COMMISSIONER—WHEN PORTIONS MAY BE GIVEN OUT.] The Commissioner shall report to the Legislative Assembly the number of coal mines being operated within the State, the number of tons of coal being mined annually, the number of persons employed in coal mining, the wages paid the coal miners and the cost per ton to mine coal at the different mines. The Commissioner is hereby authorized to give out to the press of this or other states at any time such parts of any reports in course of preparation as may be sufficiently completed to admit of publication or such information regarding the statistics of the State or any interest therein as may in his judgment be of interest or value to the people, the design being to furnish to the people through the press as fresh information regarding the State and its industries and condition as possible without awaiting the official publications through biennial or other reports.

§ 5. EMERGENCY.] That whereas an emergency exists in that it is necessary that the provisions of this act take effect long prior to the first day of July 1891, in order that the work of the various officers and persons concerned may be performed for the year 1891, under the provisions hereof; therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 11, 1891.

STOCK.

CHAPTER 116.

[S. B. No. 173.]

PROVIDING FOR APPOINTMENT OF SHEEP INSPECTORS.

AN ACT to Provide for the Appointment of Sheep Inspectors and to Provide for the Supervision of Sheep in Case of Infection.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. SHEEP INSPECTOR—HOW APPOINTED—TERM OF OFFICE.] The county commissioners of any organized county shall, upon the presentation of a petition signed by ten wool growers of said county, appoint a sheep inspector who is acquainted with the diseases to which sheep are subject, and who shall be a citizen of the county for which he is appointed, who shall hold his office for two years, unless sooner removed. Such inspector may appoint as many deputies as he may deem necessary.

§ 2. DUTIES OF SHEEP INSPECTORS.] It shall be the duty of the sheep inspector whenever he has knowledge or information that any sheep within his jurisdiction have the scab or any other malignant contagious diseases, to inspect said flock and report in writing the result of his inspection to the State Veterinarian, to be filed by him for reference for the county commissioners or any party concerned, and if so diseased, once every four weeks thereafter to reinspect said flock and report in writing the result and treatment, if any, in the same manner until said disease is reported cured.

§ 3. DUTY OF OWNER OR AGENT OF DISEASED STOCK.] The owner, or his agent, of any flock reported by the inspector to be so diseased shall immediately herd them so that they cannot range upon or within one mile of any grounds accustomed to be ranged upon by any other sheep, or shall restrain them from passing over or traveling upon or within one mile of any public highway or road, and in case this cannot be done he shall immediately remove said sheep to a locality where they shall not be permitted to range within less than five miles of any other flock of sheep, and said sheep shall continue to be herded under the restrictions until, upon inspection, they shall be reported free from such disease.

§ 4. SHEEP AFFECTED TO BE QUARANTINED.] The owner or the person in charge of any sheep which are now or shall hereafter be affected with the scab or any infectious or contagious

disease shall keep the said sheep securely within some enclosure, or shall herd them at a distance or [of] not less than five miles from all farms, corrals, sheds or other established headquarters where sheep are kept or are being herded; *Provided*, That any person owning sheep affected with the scab or any infectious or contagious disease who prior to the passage of this act established headquarters shall be allowed to range such sheep upon the public domain within five miles in any direction of such established headquarters; *Provided, further*, That such sheep shall not be allowed to range within three miles of any other headquarters, unless the other headquarters be less than five miles distant, in which case such sheep shall not be herded nearer to the other headquarters than a distance equal to one-half of the distance between the two headquarters.

§ 5. OWNER OF SHEEP MAY EXAMINE OTHER FLOCKS, WHEN.] Any person owning sheep or any one in his employ shall have the right to examine any band of sheep that shall be driven within five miles of his headquarters, and any person or persons in charge of such sheep shall stop them and allow them to be examined and shall render the necessary assistance in catching and examining them. If the person so in charge of sheep refuse to render the assistance as above required he shall be punished as hereinafter provided.

§ 6. PENALTY FOR SPREADING INFECTION—FELONY, WHEN.] Any person who shall knowingly carry or drive or cause to be carried or driven one or more sheep affected with the scab or any infectious or contagious disease into a herd of sheep belonging to another person, or shall knowingly carry or cause to be carried the parasite which causes such scab or disease and place it where another person is corralling or herding sheep so that such person may become affected thereby, shall be adjudged guilty of a misdemeanor and upon conviction thereof shall be confined in the State Prison not more than five years or in the county jail not exceeding one year, and shall pay a fine of not less than one hundred (100) dollars, nor more than \$1,000 or by both such fine and imprisonment in the discretion of the court.

§ 7. PENALTY FOR VIOLATION.] Any person violating any of the provisions of this act shall be liable in damages to any person or persons injured thereby, directly or indirectly, to be recovered in a civil action in any court of competent jurisdiction.

§ 8. OATH AND BOND OF INSPECTORS.] Every inspector before entering upon the duties of his office shall take oath of office prescribed by law and shall give bond to the State of North Dakota in the sum of \$1,000 with good sureties, conditioned that he will faithfully perform the duties of his office; such bond shall be approved by the board of county commissioners.

§ 9. BOND RECORDED, WHERE.] Such bond with the oath indorsed thereon shall be recorded in the office of the clerk of the district court for the county in which the inspector shall reside

and may be sued on by any person injured on account of the unfaithful performance of said inspector's duty; *Provided*, That no suit shall be so instituted after more than twelve months have elapsed from the time the cause of action occurred.

§ 10. WHEN INFECTED SHEEP DIPPED, PENALTY.] Every owner of sheep having scab or other malignant contagious disease shall dip or otherwise treat the same upon his own premises; *Provided*, That when he has more than one ranch or set of ranches and the diseased sheep are not upon the ranch where the dipping works or other facilities for treating the diseased are situated, he shall have the right to drive through intermediate ranges, but in so doing shall consult the owners or occupants of said range as to where he shall cross the same, and in no case shall he enter another corral or water at his troughs or accustomed watering places with his diseased sheep without the written or otherwise expressed consent of the owner, and for every violation of the provisions herein he shall be subject to a penalty of not exceeding one hundred (100) dollars.

§ 11. SALARY OF INSPECTOR, HOW PAID.] The inspector shall receive for his services five (5) dollars per day while necessarily employed in inspecting, which shall be paid out of the county general fund in the same manner and form as claims against the county are paid; *Provided, however*, The board of county commissioners shall require said sheep inspector to present an itemized statement of the number of sheep inspected and the number of days actually employed in the performance of his official duties.

§ 12. POWER OF INSPECTORS.] In all cases where scab or other contagious diseases are found in any flock of sheep, the sheep inspector is hereby empowered to prescribe what dip or other remedies shall be applied and specify the manner of treatment.

§ 13. OWNERS MUST NOTIFY INSPECTORS.] In all cases where sheep are brought into any county of this State the owner or person in charge of said sheep shall notify the inspector of the date of the arrival in said county and before being allowed to mingle with other sheep shall be quarantined for a period of not less than forty days, in a location approved of by the sheep inspector of said county; *Provided, however*, where sheep have been ranged for not less than forty days near the county line of the county to which said sheep are to be removed and are known to be free from disease, the provisions of this section shall not apply.

§ 14. PENALTY FOR ALLOWING DISEASED SHEEP TO STRAY.] In all cases where sheep are diseased and the owner or person in charge shall permit any of said sheep to stray away from their land, [and] he or they shall be guilty of a misdemeanor and shall be subject to a fine of not less than one hundred (100) nor more than five hundred (500) dollars.

§ 15. FINES AND PENALTIES A LIEN, HOW FORECLOSED.] All fines and penalties for violation of any of the provisions of this act shall constitute a lien upon the flock, subject to foreclosure the same as chattel mortgages are foreclosed.

§ 16. REPEAL.] All acts and parts of acts in conflict with any of the provisions of this act are hereby repealed.

§ 17. EMERGENCY.] An emergency exists in this that contagious diseases are known to exist among flocks of sheep within this State and the sheep inspectors are powerless to enforce proper restrictions, therefore this act shall become a law from and after its passage and approval.

Approved March 9, 1891.

CHAPTER 117.

[H. B. No. 100.]

TO PROTECT AND PROMOTE THE BREEDING OF IMPROVED LIVE STOCK.

AN ACT to Protect Stock Raisers and Promote the Breeding of Improved Live Stock Within the State of North Dakota, and to Provide a Lien for the Services of Sires.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. PEDIGREE OF SIRE.] That in order to protect the farmers in this State against damage resulting from breeding to sires advertised with bogus or fraudulent pedigrees, and to foster the increase of improved live stock and to secure to the owners of sires payment for service, the following provisions are enacted: That every owner of a sire changing a service fee, in order to have a lien upon the get of any such sire under the provisions of this act for service, shall file a statement, verified by oath, to the best of his knowledge and belief with the Commissioner of Agriculture and Labor giving name, age, description and pedigree or breeding so far as known as well as the terms and conditions upon which such sire is advertised for service.

§ 2. COMMISSIONER OF AGRICULTURE AND LABOR ISSUE CERTIFICATE.] The Commissioner of Agriculture and Labor upon receipt of the statement as specified in Section 1 of this act, and also any certificate of registry of any sire in any society for the purpose of registry of sires, duly verified by affidavit, shall issue a certificate to the owner of said sire, a copy of which certificate shall be forwarded to the clerk of the district court in which

county or counties said sire is stationed or located, and other copies furnished the applicant, which shall be posted by him in conspicuous places where said sire may be stationed, which certificate shall state the name, age, description, pedigree and ownership of said sire, the terms and conditions upon which the sire is advertised for service, and that the provisions of this act so far as relates to the filing of the statement aforesaid have been complied with.

§ 3. LIEN FOR SERVICE, HOW OBTAINED.] The owner or owners of any sire receiving such certificate by complying with Section 1 of this act, shall have and obtain a lien upon the get of any such sire and upon the female served, for the period of two years from date of birth of get, and said lien shall have priority over any or all other liens, chattel mortgages or other incumbrances upon the offspring of the female served; *Provided*, Said owner or owners shall within eight months of the time of the rendition of such service by such certified sire, file for record a statement of account with the register of deeds of the county in which such female was owned at the time of such service, together with a description of the female so served.

§ 4. FEE FOR FILING STATEMENT.] It shall be the duty of the register of deeds to file and enter said statements in the manner required by law for the filing and entering of chattel mortgages, and he shall be entitled to a fee of ten (10) cents each, for filing and discharge thereof.

§ 5. CHARGE FOR CERTIFICATES.] The Commissioner of Agriculture and Labor shall have the power to charge for certificates as may be necessary to cover the expenses of executing the law.

§ 6. LIEN, HOW FORECLOSED.] The said lien may be foreclosed by sale of the property embraced in said lien upon the notice and the manner provided by law for the foreclosure of chattel mortgages, and the costs and fees for foreclosing shall be the same; *Provided*, Said lien shall not be foreclosed for a period of nine months after the filing of said lien aforesaid, unless the owner of said female shall attempt to dispose of or remove said female from the county, or unless said female should be foreclosed on, then and in that case said lien may be foreclosed at any time.

§ 7. PENALTY FOR DISPOSING OF PROPERTY COVERED BY LIEN.] Any person selling, secreting or disposing of property covered by said lien without the written consent of the owner of said lien is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty-five (25) dollars nor more than five hundred (500) dollars, or by imprisonment in the county jail for not to exceed thirty days or by both such fine and imprisonment.

§ 8. REPEAL.] All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

§ 9. EMERGENCY.] Whereas an emergency exists by reason of there being at present no law for the protection of stock

raisers, and for the reason that such a law going into effect in the midst of the season would work an inconvenience to the owners of sires; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 6, 1891.

SUPREME COURT.

CHAPTER 118.

[S. B. No. 3.]

REGULATING PRACTICE IN SUPREME COURT.

AN ACT Regulating the Practice in the Supreme Court and in the District Court in Certain Instances.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. POWER TO ISSUE WRITS.] The Supreme Court has power in the exercise of its original jurisdiction to issue writs of *habeas corpus*, *mandamus*, *quo warranto*, *certiorari* and injunction; and in the exercise of its appellate jurisdiction, and in its superintending control over inferior courts, it may issue such original and remedial writs as are necessary to the proper exercise of such jurisdiction; *Provided*, That said court shall exercise the said original jurisdiction only in *habeas corpus* cases, and in such cases of strictly public concern as involve questions affecting the sovereign rights of the State, or its franchises or privilege.

§ 2. ISSUE AND RETURN OF WRITS.] The Supreme Court shall be always open for the issue and return of all writs and processes which it may lawfully issue, and for the hearing and determination of the same, subject to such regulations and conditions as the court may prescribe. And any judge of said court may order the issuance of any such writ or process, and prescribe the time and manner of service and time and place of return of the same; *Provided*, That in cases of *habeas corpus* the Judge of the Supreme Court who issues or causes the writ to issue may, at his discretion, direct that the writ shall be made returnable and heard and determined, either before the Supreme Court or any judge thereof; or before any district court of the State, or any judge of any district court of the State; *Provided, further*, That any dis-

trict court or judge thereof before whom any writ is made returnable, as prescribed in this section, is hereby vested with full power and authority necessary for carrying into complete execution all of its judgments, decrees and determinations, subject to appeal as provided by law.

§ 3. POWER TO EXECUTE JUDGMENTS, DECREES, ETC.] Said court is vested with full power and authority necessary for carrying into complete execution all its judgments, decrees and determinations, in the matters aforesaid, and for the exercise of its jurisdiction as the supreme judicial tribunal of the State; and shall by order made at general or special term, from time to time, make and prescribe such general rules and regulations for the conduct and hearing of causes in said court, not inconsistent with the statute law of the State, as it may deem proper; and the said court shall, by order, prescribe the manner of publication, at the expense of the State, of such rules and regulations; and the same shall not be in force until thirty days after the publication thereof.

§ 4. DECISIONS—SYLLABUS.] The said court shall in all cases decided by it, give its decision in writing, which shall be filed with the clerk of said court, with the other papers in the case. Decisions in cases heard at a general or special term, and all orders affecting the same, may be filed in vacation, and judgment entered thereon in pursuance of the finding and order of the court, with the same effect as upon decisions made and filed in term. Said court, at the time of announcing its decisions in any action determined by said court, shall file with the clerk thereof a syllabus of the decision in such action, so prepared as to embody, as briefly as practicable, the principles settled in and by such decision.

§ 5. ADJOURNMENTS.] If any two judges of said court shall not attend on the first, or on any other day of the term, the clerk shall enter such fact on record, and the judge present shall adjourn the court to the next day, and so on from day to day for six days, if neither of the absent judges appear; at the end of which period said court shall be adjourned, and all matters pending therein shall stand continued until the next regular or special term. If none of the judges appear, the clerk of said court may adjourn from day to day, as provided in this section.

§ 6. WHEN CAUSES ON CALENDAR STAND OVER.] Whenever there is no general term of said court at the time fixed therefor by law, for any cause, or whenever there is a continuance of the term of said court, or a change in the time of holding any term by act of the Legislature, all causes then upon the calendar of said court, all writs, recognizances, appeals and proceedings, commenced, taken or made returnable to said court at said term, shall stand over to and be heard at the next general term, with like effect as if no such failure, continuance or change had occurred.

§ 7. REPEAL.] All acts and parts of acts of the Legislative

Assembly of the Territory of Dakota and State of North Dakota inconsistent therewith are hereby repealed.

§ 8. EMERGENCY.] Whereas, an emergency exists in that there is no adequate statute regulating the practice in the Supreme Court and it is essential that such practice be adopted as soon as practicable, therefore, this act shall be in full force and effect from and after its passage and approval.

Approved February 5, 1891.

CHAPTER 119.

[H. B. No. 12.]

REGULATING ADMISSION OF ATTORNEYS TO PRACTICE.

AN ACT Regulating the Admission of Attorneys to Practice Law in the Courts of North Dakota.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. POWER TO ADMIT VESTED IN SUPREME COURT.] The power to admit persons to practice as attorneys and counselors in the State Courts is hereby vested in the Supreme Court.

§ 2. QUALIFICATION OF APPLICANT.] Every applicant for such admission must be at least twenty-one years of age, of good moral character, an inhabitant of this State, and must have actually and in good faith pursued a regular course of study of the law for at least two full years, either in the office of a member of the bar of this State residing therein, and in regular practice, or in some reputable law school in the United States, or partly in such office and partly in such law school; *Provided*, That in reckoning such period of study, the school year of any such law school, consisting of not less than thirty-six weeks, exclusive of vacation, shall be considered equivalent to one full year.

§ 3. EXAMINATION OF APPLICANT, HOW CONDUCTED.] Every such applicant shall also be examined by the Supreme Court, or by a committee of not less than three members of the bar appointed by said Court, as to his learning and skill in the law; and the Court must be satisfied before admitting to practice, that the applicant has actually and in good faith devoted the time hereinbefore required to the study of law, and possesses the requisite learning and skill therein.

§ 4. OATH OF OFFICE.] Upon being admitted to practice as attorney or counselor at law, as provided by this act, they shall in

open court take the following oath: "I do solemnly swear (or affirm) that I will support, protect and defend the Constitution of the United States and the Constitution of the State of North Dakota, and that I will faithfully discharge the duties of the office of attorney and counselor at law to the best of my ability."

§ 5. ADMISSION ON CERTIFICATE, HOW.] Any person becoming a resident of this State after having been admitted to the bar in any of the states of the United States, in which he has previously resided may at the discretion of the court be admitted to practice in this State without examination or proof of period of study, as hereinbefore provided, on proof of the other qualifications by this act required and on satisfactory proof that he has practiced law regularly for not less than one year in the state from which he comes after having been admitted to the bar according to the laws of such state.

§ 6. COURT MAY PRESCRIBE RULES.] The Supreme court may by general rules, prescribe the mode by which examinations under this act shall be conducted and in which qualifications required as to age, residence, character and time of study shall be proved and may make any further rules not inconsistent with this act, for the purpose of carrying out its object and intent.

§ 7. FOREIGN ATTORNEYS, MAY PRACTICE, WHEN.] Any member of the bar of another state, actually engaged in any cause, or matter pending in any court of this State, may be permitted by such court, to appear in and conduct such cause or matter while retaining his residence in another state, without being subject to the foregoing provisions of this act.

§ 8. REPEAL OF CONFLICTING LAWS.] All acts, or so much thereof as are inconsistent with the provisions of this act are hereby repealed, but nothing herein contained shall affect or impair the rights of any person heretofore admitted to practice in any of the courts of this State to continue so to practice.

Approved March 7, 1891.

CHAPTER 120.

[S. B. No. 2.]

REGULATING APPEALS IN CIVIL ACTIONS.

AN ACT Regulating Appeals from the District Courts to the Supreme Court and to Repeal Chapters 2 and 16 of the Code of Civil Procedure, Dakota Territory, as Published in Levissee's Code; and Chapters 20 and 26 of the Session Laws of Dakota Territory of the Year 1887, and also Sections 5,213 to 5,239, both Inclusive, of the Compiled Laws of Dakota Territory for the Year 1887.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPEALS TO SUPREME COURT.] A judgment or order in a civil action, or in a special proceeding, in any of the district courts, may be removed to the Supreme Court by appeal, as provided in this chapter, and not otherwise.

§ 2. TITLE OF ACTION NOT TO BE CHANGED.] The party appealing is known as the appellant and the adverse party as the respondent; but the title of the action is not to be changed in consequence of the appeal.

§ 3. TIME FOR APPEALS.] The appeal from a judgment hereafter rendered may be taken within one year after the entry thereof, and from an order within sixty days after written notice of the same shall have been given to the party appealing.

§ 4. APPEALS, HOW TAKEN.] An appeal must be taken by serving a notice in writing, signed by the appellant or his attorney, on the adverse party, and on the clerk of the court in which the judgment or order appealed from is entered, stating the appeal from the same, and whether the appeal is from the whole or a part thereof, and if from a part only, specifying the part appealed from. The appeal shall be deemed taken by the service of a notice of the appeal, and perfected on service of the undertaking for costs, or the deposit of money instead, or the waiver thereof, as hereinafter prescribed. When service of a notice of appeal and undertaking cannot in any case be made within this State, the court may prescribe a mode for serving the same.

§ 5. TRANSMISSION OF PAPERS BY CLERK.] Upon an appeal being perfected, the clerk of the court from which the appeal is taken shall, at the expense of the appellant, forthwith transmit to the Supreme Court, if the appeal is from a judgment, the judgment roll; if the appeal is from an order he shall transmit the order appealed from and the original papers used by each party on the application for the order appealed from. The court may,

however, in case of either judgment or order, direct copies to be sent in lieu of the originals. The clerk shall also, in all cases, transmit to the Supreme Court the original notice of appeal and undertaking given thereon, and he shall annex to the papers so transmitted a certificate under his hand and the seal of the court from which the appeal is taken, certifying that they are the original papers or copies, as the case may be, and that they are transmitted to the Supreme Court pursuant to such appeal. No further certificate or attestation shall be necessary; *Provided*, That if the appellant do not, within thirty days after his appeal is perfected, cause a proper record in the case to be transmitted to the Supreme Court, by the clerk of the district court, the respondent may cause such record to be transmitted by the clerk of the district court to the clerk of the Supreme Court, and in such case the respondent may recover the expense thereof as costs on such appeal, in case the judgment or order appealed from be in whole or in part affirmed.

§ 6. DEPOSIT IN PLACE OF UNDERTAKING--RESPONDENT MAY WAIVE UNDERTAKING.] When the appellant is required, under any provision of this act, to give an undertaking, he may in lieu thereof deposit with the clerk of court in which the judgment or order appealed from is entered, who shall give him a receipt therefor, a sum of money equal to the amount for which such undertaking is required to be given, and in lieu of the service of such undertaking serve a notice of the making of such deposit. Such deposit and notice shall have the same effect as the service of the required undertaking, and he shall be held to answer the event of the appeal upon the terms prescribed for the undertaking, in lieu of which the same is deposited. Any such undertaking and deposit may be waived in writing by the respondent for whose benefit the same is required to be made, and such waiver shall have the same effect as the giving of the undertaking would have had.

§ 7. APPELLANT MUST EXECUTE UNDERTAKING.] To render an appeal effectual for any purpose, an undertaking must be executed on the part of the appellant by at least two sureties, to the effect that the appellant will pay all costs and damages which may be awarded against him on the appeal, not exceeding two hundred and fifty (250) dollars.

§ 8. STAY OF EXECUTION--ADDITIONAL UNDERTAKING REQUIRED.] If the appeal be from a judgment directing the payment of money, it shall not stay the execution of the judgment unless an undertaking be executed on the part of the appellant, by at least two sureties, to the effect that if the judgment appealed from, or any part thereof, be affirmed, the appellant will pay the amount directed to be paid by the judgment, or the part of such amount as to which the judgment shall be affirmed, if it be affirmed only in part, and all damages which shall be awarded against the appellant on appeal.

§ 9. EXECUTION OF JUDGMENT NOT TO BE DELAYED, EXCEPT

WHEN.] If the judgment appealed from direct the assignment or delivery of documents or personal property, the execution of the judgment shall not be delayed by the appeal, unless the things required to be assigned or delivered be brought into the court or placed in the custody of such officer or receiver as the court or presiding judge thereof shall appoint, or unless an undertaking be entered on the part of the appellant, by at least two sureties, in such sum as the court or presiding judge thereof shall direct, to the effect that the appellant will obey the order of the appellate court on the appeal.

§ 10. EXECUTION OF CONVEYANCE NOT TO BE STAYED, EXCEPT WHEN.] If the judgment appealed from direct the execution of a conveyance or other instrument, the execution of the judgment shall not be stayed by the appeal, unless the instrument shall have been executed and deposited with the clerk with whom the judgment is entered, to abide the judgment of the appellate court.

§ 11. TO SELL AND DELIVER REALTY, EXCEPT WHEN.] If the judgment appealed from, direct the sale or delivery of possession of real property (except in actions for foreclosure of mortgage), the execution of the same shall not be stayed unless an undertaking be executed on the part of the appellant, by at least two sureties, in such sum as the court or presiding judge thereof shall direct, to the effect that during the possession of such property by the appellant, he will not commit or suffer to be committed any waste thereon, and that if the judgment be affirmed, he will pay the value of the use and occupation of the property, from the time of the appeal until the delivery of possession thereof, pursuant to the judgment.

§ 12. DIRECTING SALE OF MORTGAGED PROPERTY.] If the judgment appealed from direct the sale of mortgaged premises, the execution thereof shall not be stayed by the appeal, unless an undertaking be executed on the part of the appellant, by at least two sureties, conditioned for the payment of any deficiency which may arise on such sale, not exceeding such sum as shall be fixed by the court or presiding judge thereof, to be specified in the undertaking, and all costs and damages which may be awarded to the respondent on such appeal.

§ 13. DIRECTING THE ABATEMENT, OR RESTRAINING THE CONTINUANCE OF A NUISANCE.] If the judgment appealed from direct the abatement, or restraint of the continuance of a nuisance, either public or private, the execution of the judgment shall not be stayed by the appeal unless an undertaking be entered on the part of the appellant, by at least two sureties, in such sum as the court or presiding judge thereof shall direct, to the effect that the appellant will pay all damages which the opposite party may sustain by the continuance of such nuisance.

§ 14. OTHER JUDGMENTS.] If the judgment appealed from direct the doing of any particular act or thing, and no express

provision is made by the statute in regard to the undertaking to be given on appeal therefrom, the execution thereof shall not be stayed by the appeal therefrom unless an undertaking be entered on the part of the appellant, in such sum as the court, or presiding judge thereof shall direct, and by at least two sureties, to the effect that the appellant will pay all damages which the opposite party may have sustained by not doing the particular thing or act directed to be done by the judgment appealed from, and to such further effect as such court or judge shall, in discretion, direct.

§ 15. APPEALS FROM INTERMEDIATE ORDERS.] When the appeal is from an order the execution or performance thereof shall not be delayed, except upon compliance, as the court or presiding judge thereof shall direct, and when so required, an undertaking shall be executed on the part of the appellant, by at least two sureties in such sums and to such effect as the court or presiding judge thereof shall direct; such effect shall be directed in accordance with the nature of the order appealed from, corresponding to the foregoing provisions in respect to appeals from judgments, where applicable, and such provision shall be made in all cases as shall properly protect the respondent, and no appeal from an intermediate order before judgment shall stay proceedings, unless the court or presiding judge thereof shall, in his discretion, so specially order.

§ 16. UNDERTAKING OF APPELLANT.] When a party shall give immediate notice of appeal from an order vacating or modifying a writ of attachment, or from an order denying, dissolving or modifying an injunction, he may within six days thereafter serve an undertaking executed on his part by at least two sureties, in such sum as the court or presiding judge thereof shall direct, to the effect that if the order appealed from or any part thereof be affirmed the appellant will pay all costs and damages which may be awarded against him on appeal, and all which the adverse party may sustain by reason of the continuance of the attachment, or the granting or continuance of the injunction, as the case may be. Upon the giving of such undertaking such court or judge shall order the attachment to be continued, and in his discretion, may order the injunction asked to be allowed, or that before granted to be continued until the decision of the appeal, unless the respondent shall, at any time pending the appeal, give an undertaking, with sufficient surety in a sum to be fixed by the court or presiding judge, to abide and perform any final judgment that shall be rendered in favor of the appellant in the action, but may at any time subsequently vacate such order if the appeal be not diligently prosecuted.

§ 17. UNDERTAKING, WHEN NOT NECESSARY.] When the State or any State officer, or State board, in a purely official capacity, or any municipal corporation within the State shall take an appeal, service of the notice of appeal shall perfect the appeal and

stay the execution or performance of the judgment or order appealed from, and no undertaking need be given; but the Supreme Court may on motion require sureties to be given, in such form and manner as it shall in its discretion prescribe, as a condition of the further prosecution of the appeal.

§ 18. WHEN SURETY BECOMES INSOLVENT.] The Supreme Court, upon satisfactory proof that any of the sureties to an undertaking given under this act has become insolvent, or that his circumstances have become so precarious that there is reason to apprehend that the undertaking is insufficient security, may in its discretion require the appellant to file and serve a new undertaking, with such sureties and in such time as shall be prescribed, and that in default thereof the appeal shall be dismissed or the stay of proceedings vacated, and the execution or performance of the judgment or order be allowed to be enforced without further delay.

§ 19. UNDERTAKINGS MAY BE IN ONE INSTRUMENT — REFUSAL OF JUDGE TO STAY.] The undertakings required by this act may be in one instrument or several, at the option of the appellant; the original must be filed with a notice of the appeal, and a copy showing the residence of the sureties must be served with notice of appeal. When the sum or effect of any undertaking is required under the foregoing provisions to be fixed by the court or judge, at least twenty-four hours' notice of the application therefor shall be given the adverse party. When the court, or the judge thereof, from which the appeal is taken, or desired to be taken, shall neglect or refuse to make any order or direction not wholly discretionary, necessary to enable the appellant to stay proceedings upon an appeal, the Supreme Court, or one of the justices thereof, shall make such order or direction.

§ 20. SURETIES MUST JUSTIFY.] An undertaking upon an appeal shall be of no effect unless it be accompanied by the affidavit of the sureties, in which each surety shall state that he is worth a certain sum mentioned in such affidavit, over and above all his debts and liabilities, in property within this State not by law exempt from execution, and which sum so sworn to by such sureties shall, in the aggregate, be double the amount specified in said undertaking. The respondent may, however, except to the sufficiency of the sureties within ten days after such notice of the appeal, and unless they or other sureties justify in the same manner as upon bail on arrest within ten days thereafter, the appeal shall be regarded as if no undertaking has been given. The justification shall be upon a notice of not less than five days.

§ 21. EFFECT OF PERFECTED APPEAL—SALE OF PERISHABLE PROPERTY.] Whenever an appeal shall have been perfected and the proper undertaking given, or other act done, prescribed by this act to stay the execution or performance of the judgment or order appealed from, all further proceedings thereon shall be thereby stayed accordingly, except that the court below may pro-

ceed upon any other matter included in the action, not affected by the judgment or order appealed from, and except that the court or the presiding judge thereof may order perishable property, held under the judgment or order appealed from, to be sold, and the proceeds paid into the court to abide the event.

§ 22. REFERENCE TO ASCERTAIN DAMAGES, WHEN—BREACH OF UNDERTAKING.] When the amount of damages to be paid by the appellant or [on] affirmance of the judgment or order appealed from, pursuant to an undertaking, is not fixed by the judgment or decision of the Supreme Court on appeal, the district court may, after the remittitur of the record from the Supreme Court is filed, order a reference to ascertain such damages, the expense of which shall be included and recoverable with such damages. In all cases of neglect for the space of thirty days after the affirmance on appeal of a judgment directing the payment of money, to pay the amount directed to be paid on such affirmance, shall be deemed a breach of the undertaking on such appeal. A neglect for a space of sixty days after the confirmation of a report of a referee, to whom a reference has been ordered for the purpose of ascertaining the damages to be paid, on the affirmance of any other judgment or order appealed from, to pay the amount of damages so ascertained and the costs of such reference, shall be deemed a breach of the undertaking on such appeal. The dismissal of an appeal by the appellant, or by the court for the want of prosecution, unless the court shall, at the time, otherwise expressly order, shall render the sureties upon the undertaking or bond, given under this act, liable in the same manner and to the same extent as if judgment or order appealed from had been affirmed.

§ 23. AMENDMENT OR PERFECTION OF APPEALS.] When a party shall in good faith give notice of appeal, and shall omit through mistake or accident, to do any other act necessary to perfect the appeal to make it effectual, or to stay proceedings, the court from which the appeal is taken, or the presiding judge thereof, or [the] Supreme Court, or any one of the justices thereof, may permit an amendment, or the proper act to be done on such terms as may be just.

§ 24. WHAT ORDERS REVIEWABLE.] The following orders, when made by the court, may be carried to the Supreme Court:

First. An order affecting a substantial right, made in any action, when such order in effect determines the action and prevents a judgment from which an appeal might be taken.

Second. A final order affecting a substantial right, made in special proceedings, or upon a summary application in an action after judgment.

Third. When an order grants, refuses, continues or modifies a provisional remedy, or grants, refuses, modifies or dissolves an injunction; when it sets aside or dismisses a writ of attachment for

irregularity; when it grants or refuses a new trial, or when it sustains or overrules a demurrer.

Fourth. When it involves the merits of an action or some part thereof; when it orders judgment on application therefor, on account of the frivolousness of a demurrer, answer or reply; or strikes off such demurrer, answer or reply on account of the frivolousness thereof.

Fifth. From orders made by the district court, vacating or refusing to set aside orders made at chambers where by the provisions of this act an appeal might have been taken, in case the order so made at chambers had been granted or denied by the district court in the first instance. For the purpose of an appeal from an order, either party may require the order to be entered by the clerk of record, and it shall be entered accordingly.

§ 25. DETERMINATION OF APPEAL—QUESTIONS OF FACT REVIEWED—WHEN.] Upon an appeal from a judgment the Supreme Court may review any intermediate order or determination of the court below which involves the merits, and necessarily affect the judgment, appearing upon the record transmitted or returned from the district court, whether the same were excepted to or not; nor shall it be necessary in any case to take any exception or settle any bill of exception to enable the Supreme Court to review any alleged error which would, without a bill of exceptions, appear upon the face of the record. Any questions of fact or of law, decided upon trials by the court or by referee, may be reviewed when exceptions to the findings of fact have been duly taken by either party and returned.

§ 26. COURT'S POWER AS TO JUDGMENT OR ORDER—GRANT REHEARING—CLERK TO TRANSMIT CERTAIN PAPERS.] Upon an appeal from a judgment or order, the Supreme Court may reverse, affirm or modify the judgment or order, and as to any and all of the parties; and may, if necessary or proper order a new trial, and if the appeal is from a part of the judgment or order, may reverse, affirm or modify as to the part appealed from. In all cases the Supreme Court shall remit its judgment or decision to the court from which the appeal was taken, to be enforced accordingly; and if from a judgment, final judgment shall thereupon be entered in the courts below in accordance therewith, except where otherwise ordered. The clerk of the Supreme Court shall remit to such court the papers transmitted to the Supreme Court on the appeal, together with the judgment or decision of the Supreme Court thereon, within sixty days after the same shall have been made, unless the Supreme Court, on application of either of the parties, shall direct them to be retained for the purpose of enabling such parties to move for a re-hearing. In case such motion for a re-hearing is denied, the papers shall be remitted within twenty days after such denial. The clerk of the Supreme Court shall in all cases, except when the order of judgment is affirmed, also transmit with the papers so returned by him a certified copy

of the opinion of the Supreme Court, and his fees for such copy shall be taxed and allowed with his other fees in the case.

§ 27. WHEN NEW TRIAL ORDERED—TIME LIMITED.] In every case on appeal in which the Supreme Court shall order a new trial, or further proceedings in the court below, the record shall be transmitted to such court, and proceedings had therein within one year from the date of such order in the Supreme Court, or in default thereof, the action shall be dismissed, unless upon good cause shown the court shall otherwise order.

§ 28. REPEAL OF CONFLICTING ACTS.] That Chapter 2 and Chapter 16 of the Code of Civil Procedure, Dakota Territory, as published in Levissee's Code; and Chapter 20 and Chapter 26 of the Session Laws of Dakota Territory of the year 1887, also Sections 5213 to 5239, both inclusive, of the Compiled Laws of Dakota Territory for the year 1887, and all acts and parts of acts inconsistent herewith are hereby expressly repealed.

§ 29. EMERGENCY.] Whereas, there is no adequate law governing appeals from the district courts to the Supreme Court and it is essential that the same be fixed as soon as practicable, and long before July 1, 1891; therefore an emergency exists, and this act shall take effect and be in full force from and after its passage and approval.

Approved February 11, 1891.

CHAPTER 121.

[S. R. No. 161.]

AMENDING AN ACT APPROVED FEBRUARY 11, 1891.

AN ACT to Amend Section 25, of Chapter 120 of the Laws of 1891, Entitled "A Bill for an Act Regulating Appeals from the District Courts to the Supreme Court, and to Repeal Chapters 3 and 16 of the Code of Civil Procedure, Dakota Territory, as Published in Levissee's Code; and Chapters 20 and 26 of the Session Laws of Dakota Territory of the Year 1887; also Sections 5213 to 5239, both Inclusive, of the Compiled Laws of Dakota Territory of the Year 1887."

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPEAL WITHOUT MOTION FOR NEW TRIAL, WHEN.] That Section 25, of Chapter 120, of the Laws of 1891, be and the same is hereby amended to read as follows: "Upon an appeal from a judgment the Supreme Court may review any intermediate order or determination of the court below which involves the merits and necessarily affects the judgment, appearing upon the record trans-

mitted or returned from the district court, whether the same are accepted to or not; nor shall it be necessary in any case to take any exception or settle any bill of exceptions to enable the Supreme Court to review any alleged error which would, without a bill of exceptions, appear upon the face of the record. Any question of fact or law decided upon trials by the court or by referee; and appearing upon the record properly accepted to, in cases in which an exception is necessary, may be reviewed by the Supreme Court whether a motion for a new trial was or was not made in the court below, and such questions of fact or of law and such exceptions may be made a part of the record by statement of the case made within the time and in the manner provided in Section 9, Chapter 21, Laws of 1887; but questions of fact shall not be reviewed in the Supreme Court in jury cases unless a motion for a new trial is first made in the court below."

§ 2. EMERGENCY.] Whereas an emergency exists in this that there is no law providing for a review of the decision of the district court without a motion for a new trial, this act shall take effect and be in force from and after its passage and approval.

Approved March 7, 1891.

CHAPTER 122.

[S. B. No. 191.]

AMENDING AN ACT APPROVED FEBRUARY 11, 1891.

AN ACT to Amend Section 28, of Chapter 120, of the Session Laws of 1891, Approved February 11, 1891, Entitled "An Act Regulating Appeals in Civil Actions."

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 28, of Chapter 120, of the Session Laws of 1891, entitled "An Act Regulating Appeals in Civil Actions," be amended so as to read as follows:

Sec. 28. REPEAL OF CONFLICTING LAWS.] That Chapter 2 and Chapter 16 of the Code of Civil Procedure, Dakota Territory, as published in Levissee's Code; and Chapter 20 and Chapter 26 of the Session Laws of Dakota Territory of the year 1887, also Sections 5213 to 5239, both inclusive, of the Compiled Laws of Dakota Territory for the year 1887, and all acts and parts of acts inconsistent herewith are hereby expressly repealed; *Provided*, That this act shall not apply to, cut off or effect the right of appeal in cases where judgments and orders have been made or entered prior to the approval of this act.

Approved March 7, 1891.

CHAPTER 123.

[H. B. No. 197.]

PROVIDING FOR PUBLICATION OF SUPREME COURT REPORTS.

AN ACT to Provide for the Publication of Reports of Opinions Rendered by the Supreme Court of the State of North Dakota, by Amending Section 7, of Chapter 171, of the Laws Passed by the First Legislative Assembly of the State of North Dakota.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 7, of Chapter 171, of the laws passed by the First Legislative Assembly of the State of North Dakota, be and the same is hereby amended to read as follows:

Sec. 7. WHEN REPORTS TO BE PRINTED—HOW SOLD.] It shall be the duty of the Supreme Court Reporter to publish in book form the opinions of the Supreme Court, together with other matters as contemplated in Section 2 of this act, when the Judges of said Court shall direct such publication to be made; *Provided*, That each book shall contain not less than 550 pages octavo of printed matter. The publication shall be let and paid for in the same manner as other public printing; but the printed matter shall be stereotyped and the stereotyped plates shall be the property of the State and shall be deposited in the office of the Secretary of State. The first edition of each volume shall consist of 750 copies, which shall be delivered to the Secretary of State to be by him distributed according to law; and volumes remaining undistributed shall be sold by him at three (3) dollars per volume.

Approved March 6, 1891.

USURY.

CHAPTER 124.

[S. B. No. 90.]

DEFINING USURY AND MAKING THE TAKING OF SAME A MISDEMEANOR.

AN ACT Defining Usury, Making the Taking of Usury a Misdemeanor, Also the Assignment or Disposition of Usurious Contracts, and Providing a Penalty Therefor.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. USURY DEFINED.] That the taking, receiving or accepting of a greater rate of interest upon any bond, bill of exchange,

promissory note, mortgage or contract for the use, loan or forbearance of money or things in action, than is provided by law, is usury.

§ 2. PENALTY.] That any person or persons, company or corporation, which shall take, receive or accept of usury, or sell, assign, transfer, or in any manner dispose of any usurious bond, bill of exchange or contract whatsoever, knowing the same to be usurious without first giving such purchaser or assignee notice of its usurious character, shall be deemed guilty of a misdemeanor, and upon conviction thereof in any court having competent jurisdiction shall be fined not less than twenty-five (25) nor more than two hundred (200) dollars, or by imprisonment in the county jail not less than ten nor more than sixty days, or both fine and imprisonment in the discretion of the court for each and every such offense.

Approved March 9, 1891.

VETERINARY SURGEON.

CHAPTER 125.

[S. B. No. 157.]

TO PREVENT THE SPREAD OF CONTAGIOUS AND INFECTIOUS DISEASES.

AN ACT to Prevent the Spread of Contagious and Infectious Diseases Among Domestic Animals.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPOINTMENT—OATH.] The Governor of the State is hereby authorized to nominate, and, with the consent of the Senate, to appoint a competent veterinarian, who shall be known as the "State Veterinarian," who, upon entering upon his duties, shall take an oath to well and truly perform his duties as provided by law, which said oath shall be taken before any district judge within the State, and shall be filed with the Secretary of State.

§ 2. DUTIES.] The duties of said "State Veterinarian" shall be as follows:

First. To investigate, in person or by deputy, any and all cases of contagious or infectious diseases among cattle, horses, mules, asses, sheep and other domestic animals in this State, of which he may have knowledge or which may be brought to his notice by

any resident in any locality where such disease may exist, and it shall be his duty, in person, or by deputy, in the absence of specific information, to make visits of inspection to any locality, within the State, where he may have reason to believe that there are contagious or infectious diseases existing among such domestic animals.

Second. To seize and inspect, either in person or by deputy, at the State line, or as near thereto as may be possible, any horses, mules, cattle, asses, sheep or other domestic animals, which may be unloaded temporarily or consigned to any point within this State, when the owner, agent, or person in charge thereof shall not, upon demand, produce certificates of the health of such animals, satisfactory to the State Veterinarian or his deputy, from a duly authorized state veterinarian or examiner of the State from which said animals have been shipped.

Third. To examine, either in person or by deputy, so often as he may deem reasonable, all pens, enclosures and cars, within the State, within which domestic animals may be confined or transported and to require the owner, agent or person in charge of all such pens, enclosures and cars to keep the same in proper sanitary condition.

Fourth. To require, either in person or by deputy, the owner, agent or person in charge, of all pens, enclosures or cars, within which domestic animals may be confined or transported, to cleanse, fumigate and disinfect all pens, enclosures or cars within which such domestic animals may be confined or transported, within two days after written notice, when, in his opinion, such cleansing, fumigating and disinfecting shall be necessary for the prevention of the spread or outbreak of any contagious or infectious disease among such animals.

Fifth. It shall also be the duty of the State Veterinarian, in person or by deputy, to seize and inspect all domestic animals coming into and to remain within the State without a certificate of the health of such animals, from a duly authorized state veterinarian or examiner from the state from which said animals have been shipped, and before such animals shall be allowed, by the State Veterinarian to be transported into and to remain within the State. In addition to such inspection, he shall, either in person or by deputy, require from the owner of such animals, or from the agent or person in charge of such animals, an affidavit to the effect that such animals have not been exposed to any infectious or contagious disease for a period of at least ninety days prior to the making of such affidavit, and, in case the State Veterinarian shall have reason to believe that any domestic animals have been exposed to, or have contracted any contagious or infectious disease, it shall be his duty to seize and inspect such animals, notwithstanding any certificate of their health by any veterinarian or examiner of any other State.

§ 3. APPOINTMENT OF DEPUTIES.] The State Veterinarian is

hereby authorized to appoint Deputy State Veterinarians, in case they shall be necessary to the proper discharge of the duties of his office, who shall act under the direction and by the instruction of the State Veterinarian, which said Deputy State Veterinarians shall each furnish a satisfactory bond, in the penal sum of one thousand dollars to the State Veterinarian for the faithful performance of their duties, and said Deputy State Veterinarians may be dismissed from office at the pleasure of the State Veterinarian and their places may be filled by his appointment.

§ 4. COMPENSATION OF DEPUTY STATE VETERINARIANS.] Whenever any Deputy State Veterinarian shall be appointed, as provided in Section 3 of this act, he shall receive for his services the sum of five (5) dollars for each day actually and necessarily employed by direction of the State Veterinarian, together with his necessary traveling expenses, actually paid out while in the performance of his duties. These payments shall be made from any funds in the State Treasury, not otherwise appropriated, upon itemized vouchers signed and sworn to by him and submitted to the State Veterinarian and the State Auditor. No constructive mileage shall be paid under this act to any Deputy State Veterinarian, nor shall any Deputy State Veterinarian receive any mileage.

§ 5. OWNER REQUIRED TO PAY FEES—FEES TO BE PAID INTO GENERAL FUND.] Whenever any domestic animals are seized and inspected, under the provisions of this act, by the State Veterinarian or by any Deputy State Veterinarian, while such animals are being transported in cars, on shipboard, or brought into the State in any other manner, the State Veterinarian or any Deputy State Veterinarian, making such seizure and inspection, shall require the owner, agent or person in charge of such animals to pay one-half cent each for the inspection of sheep and twenty-five cents each for all other animals named herein. All money so collected by any Deputy State Veterinarian shall be immediately transmitted to the State Veterinarian, together with a detailed report of the seizure and inspection and it shall be the duty of the State Veterinarian to transmit, monthly, all money collected, as inspection fees, under the provisions of this act, to the State Treasurer, who shall receipt to the State Veterinarian therefor. All such fees shall be paid by the State Treasurer into the State Treasury General Fund; *Provided*, That no inspection shall be made by any Deputy State Veterinarian of any domestic animals in transit through the State, without special instructions from the State Veterinarian, when the owner, agent, or person in charge thereof shall produce certificates of the health of such animals from a duly authorized veterinarian or examiner from the State from which said animals have been shipped.

§ 6. WHEN MAY ORDER QUARANTINE—WHEN GOVERNOR TO ISSUE PROCLAMATION.] In all cases of contagious or infectious disease among domestic animals, or Texas cattle in this State, the State

Veterinarian shall have authority to order the quarantine of the infected premises and animals and in case such disease shall become epidemic in any locality in this State, the State Veterinarian shall immediately notify the Governor of the State, who shall thereupon issue his proclamation, forbidding any animals, of the kind among which said epidemic exists, to be transferred from said locality without a certificate from the State Veterinarian showing such animals to be healthy. The expense of holding, feeding and taking care of all animals quarantined under the provisions of this act, shall be paid by the owner, agent or person in charge of said animals.

§ 7. WHEN MAY ORDER SLAUGHTER OF DISEASED ANIMALS—BURIAL OF SLAUGHTERED ANIMALS.] In case of any epidemic diseases, where premises and animals have been previously quarantined by the State Veterinarian, as before provided, he is further authorized and empowered, when in his judgment it is necessary, to order the slaughter of any and all diseased animals upon said premises. Said order shall be a written one, and shall be made in duplicate, and there shall be a distinct order, in duplicate, for each owner of the animals condemned. The original of each order to be filed by the State Veterinarian with the Governor of the State, and the duplicate given to the said owner, agent or person in charge of said condemned animals. It shall be the duty of the owner, agent or person in charge of any and all animals slaughtered under the provisions of this act, to immediately bury the carcasses of such slaughtered animals in a trench at least six feet in depth and at least four feet beneath the surface of the ground, or burn and consume such carcasses, under the direction of the State Veterinarian or his deputy; and it is hereby made the duty of the State Veterinarian, in person or by deputy, to require the owner, agent or person in charge of such slaughtered animals to immediately bury or burn the carcasses of such slaughtered animals as herein provided.

§ 8. ANNUAL REPORT TO GOVERNOR—GOVERNOR TO TRANSMIT REPORT TO COUNTY COMMISSIONERS.] The State Veterinarian shall make a report, at the end of every year, to the Governor, of all matters connected with his work, and the Governor shall transmit to the several boards of county commissioners such parts of said report as may be of general interest to the breeders of live stock. The Governor shall also give information in writing, as soon as he obtains it, to the various boards of county commissioners, of each case of suspicion or fresh outbreak of disease, in each locality, its cause, and the measures adopted to check it.

§ 9. CONTAGIOUS DISEASES AND ANIMALS TO BE DISTRIBUTED OR TRANSPORTED IN STATE TO BE REPORTED TO THE STATE VETERINARIAN—PENALTY FOR FAILURE.] It shall be the duty of any owner, person or agent in charge of any cattle, horses, mules, asses, sheep or other domestic animals, when such owner, agent or person in charge intends to bring any such animals into this State, for dis-

tribution, sale, residence or transportation, without a certificate of their health from a duly authorized veterinarian or examiner of the state from which such animals are shipped, to give notice, in writing, to the State Veterinarian at least three days before such animals are brought into this State beyond the quarantine station at the State line; and it shall be the duty of any person or persons who shall have knowledge or suspect that there is upon his or their premises, or upon the public domain, any case of contagious or infectious disease among domestic animals or Texas cattle, to immediately report the same to the State Veterinarian, and a failure so to do, or any attempt to conceal the existence of such diseases, or a failure to give notice, before passing the quarantine station at the State line, as in this section required, or to willfully or maliciously obstruct or resist the State Veterinarian or his deputies in the discharge of his duty, as set forth in this act, shall be deemed a misdemeanor, and any person or persons who shall be convicted of any one of the above acts or omissions shall be fined not less than fifty (50) dollars nor more than \$2,000 for each and every such offense; and upon conviction a second time shall, in addition to the above named fine, be imprisoned in the county jail for a term of not less than ninety days nor more than one year.

§ 10. REGULATIONS IN CASES OF DISEASE.] The following regulations shall be observed in all cases of disease covered by this act:

First. It shall be unlawful to sell, give away or in any manner part with any animal affected with, or suspected of being affected with, any contagious or infectious disease, and in case of any animal that may be known to have been affected with or exposed to any such disease within one year prior to such disposal, due notice of the fact shall be given in writing to the party receiving the animal.

Second. It shall be unlawful to kill for butcher purposes any such animal; to sell, give away or use any part of it, or its milk, or to remove any part of the skin. A failure to observe these provisions shall be deemed a misdemeanor, and, on conviction, shall be punished by a fine not less than one hundred (100) dollars, nor exceeding two thousand dollars; and, in addition to the above named fine, be imprisoned in the county jail for a term of not less than ninety days nor more than one year. It shall be the duty of the owner, or person having in charge any animal infected with or suspected of being infected with any contagious or infectious disease, to immediately confine the same in a safe place, isolated from all other animals, and with all necessary restrictions to prevent the dissemination of the disease until the arrival of the State Veterinarian. The above regulations shall apply as well to animals in transit through the State as to those resident therein; and the State Veterinarian, or his duly authorized deputy, shall have full authority to examine, whether in car, or yard, or pasture, or stables, or upon the public domain, all ani-

mals passing through the State, or any part of it, and, on detection or suspicion of disease, take possession of and treat and dispose of such animals in the said manner as is prescribed for animals resident in the State.

§ 11. SALARY—TRAVELING EXPENSES—QUALIFICATIONS OF VETERINARIAN—TERM OF OFFICE—BOND.] The State Veterinarian shall receive for his services the sum of \$2,000 per annum, together with his necessary traveling expenses, actually paid out when in the performance of his duty; *Provided*, Such expenses shall not exceed \$2,000 in any one year. These payments shall be made from any funds in the State Treasury, not otherwise appropriated, monthly, upon itemized vouchers, signed and sworn to by him, and submitted to the State Auditor, who shall draw warrants upon the State Treasurer for the amounts, if found correct, separate vouchers being made for salary and expenses. No person shall be competent under this act to receive the appointment of State Veterinarian who is not, at the date of his appointment, either a graduate in good standing of a recognized college of veterinary surgeons or of not less than ten years' actual practice as a veterinary surgeon in this State. He shall hold his office for two years. He may be removed for cause by the Governor, who shall also have power to fill the vacancy, as hereinbefore provided. Before entering upon the discharge of his duties he shall give a bond to the State of North Dakota, with good and sufficient security, in the sum of \$5,000, conditioned for the proper discharge of the same. No constructive mileage shall be paid under this act, nor shall the State Veterinarian receive any mileage.

§ 12. WHERE STOCK TO BE QUARANTINED.] The State Veterinarian or his deputy shall select the place or places at which all animals referred to herein shall be quarantined.

§ 13. FINES TO BE PAID INTO SCHOOL FUND.] All fines collected under the provisions of this act shall be paid into the public common school fund.

§ 14. DUTIES OF STATES ATTORNEYS AND ATTORNEY GENERAL.] It is hereby made the duty of the Attorney General or states attorney of the respective counties to prosecute any case, complained of by the State Veterinarian for prosecution, in any justice or district court, within the jurisdiction of which any violation of this act may have been had, and on conviction of violating any of the provisions of this act, the court may award, in addition to the penalties prescribed by law, and add to the judgment such attorney's fees and costs of prosecution as the court may determine just in the premises.

§ 15. COUNTY SHEEP INSPECTORS TO REPORT TO STATE VETERINARIAN — FEES FOR TREATMENT.] It shall, in addition to their duties already defined by law, be the duty of all sheep inspectors, and the State Veterinarian shall require all sheep inspectors to report in writing, at the end of each calendar month, to the State Veterinarian any knowledge or information such

sheep inspectors may possess relative to any diseased sheep which may be within his own or adjacent counties, and whenever, in the opinion of the State Veterinarian, any sheep inspector is incompetent to or neglects or refuses to attend in a proper manner to his duties, the State Veterinarian, in person or by deputy, may take charge of any diseased sheep in such county, and dip and treat them in the manner provided for in the law relating to sheep inspectors, Chapter 135, General Laws of 1885; and the owner, agent or person in charge of such sheep shall be required by the State Veterinarian, in person or by deputy, to pay a fee of five (5) dollars per day, together with the necessary expenses of the State Veterinarian, or his deputy, while in the performance of his duty as set forth in this Section 15, and said fees shall be a lien on the sheep inspected, subject to foreclosure, same as chattel mortgages. All fees and other money collected by the State Veterinarian or his deputy under the provisions of this Section 15 shall be remitted, turned over, receipted for and placed in the State Treasury General Fund, in the same manner as is provided for in inspection fees in Section 5 of this act.

§ 16. SHEEP INSPECTION.] In all counties of this State where a sheep inspector has been or may be appointed as provided for by law, the resident sheep therein shall be under the supervision and inspection of such sheep inspector; *Provided, however,* Upon a written application, signed by not less than three sheep owners, the State Veterinarian or his deputy shall visit such county and take such authority or give such directions as in his judgment is necessary.

§ 17. TRANSPORTATION OF DISEASED STOCK PROHIBITED—PENALTY.] No railroad company shall transport any cattle, horses, mules, asses, sheep or other domestic animals into this State, to be unloaded temporarily or consigned to any point within this State, without a certificate of health of such animals from a duly authorized State Veterinarian or examiner from the State from which said animals have been shipped, nor shall any such animals be shipped out of the State without such certificate of health; *Provided, however,* That said veterinarian, surgeon or his deputy shall issue such certificate of health without charge when such animals are shipped out of this State. Any violation of this section shall be deemed a misdemeanor and punished by a fine of not less than fifty (50) dollars nor more than \$5,000.

§ 18. REPEAL.] All acts and parts of acts conflicting with the provisions of this act are hereby repealed.

§ 19. EMERGENCY.] Whereas, an emergency exists in that the existing law is defective and inadequate to enable the State Veterinarian to properly discharge the duties of his office, prior to July 1, 1891; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 6, 1891.

WAREHOUSES.

CHAPTER 126.

[H. B. No. 212.]

REGULATING GRAIN WAREHOUSES, AND WEIGHING AND HANDLING OF GRAIN, ETC.

AN ACT to Regulate Grain Warehouses and the Weighing and Handling of Grain, and Defining the Duties of the Railroad Commissioners in Relation Thereto.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. POWERS.] That the duties imposed by the provisions of this act and the powers conferred therein devolve upon the Board of Railroad Commissioners.

§ 2. TO SUPERVISE THE HANDLING, WEIGHING AND STORAGE OF GRAIN.] That it shall be the duty of the Railroad Commissioners of the State of North Dakota to supervise the handling, weighing and storage of grain and seeds; to establish all necessary rules and regulations for the weighing of grain and for the management of the public warehouses of the State, as far as such rules and regulations may be necessary to enforce the provisions of this act, or any law in this State in regard to same; to investigate all complaints of fraud or oppression in the grain trade of this State, and correct the same as far as it may be in their power.

§ 3. PRINTING AND PUBLISHING RULES.] The rules and regulations so established shall be printed and published by said Railroad Commissioners in such manner as to give the greatest publicity thereto and the same shall be in force and effect until they shall have been changed or abrogated by said Commissioners in a like public manner.

§ 4. PUBLIC WAREHOUSES DEFINED.] All buildings, elevators or warehouses in this State, erected and operated or which may hereafter be erected and operated by any person or persons, association, co-partnership, corporation or trust for the purpose of buying, selling, storing, shipping or handling grain for profit, are hereby declared public warehouses, and the person or persons, association, co-partnership or trust owning or operating said building or buildings, elevator or elevators, warehouse or warehouses which are now or may hereafter be located or doing business within this State, as above described whether said owners or ope-

rators reside within this State or not are public warehousemen within the meaning of this act and none of the provisions of this act shall be construed so as to permit discrimination with reference to the buying, receiving and handling of grain of standard grades, or in regard to parties offering such grain for sale, storage or handling at such public warehouses, while the same are in operation.

§ 5. BOND.] That the proprietor, lessee or manager of any public warehouse or elevator in this State shall file with the Railroad Commissioners of the State a bond to the State of North Dakota, with good and sufficient sureties, to be approved by said Commissioners of Railroads in the penal sum of not less than \$5,000 nor more than \$75,000, in the discretion of said Commissioners, conditioned for the faithful performance of duty as public warehousemen and a compliance with all the laws of this State in relation thereto. One bond only need be given for any line or lines of elevators or warehouses owned, controlled or operated by one individual, firm, corporation or trust; said bond specifying the location of each elevator or warehouse operated by said individual, firm, corporation or trust and be in sufficient amount, at the discretion of the Commissioners aforesaid, to protect holders of outstanding tickets.

§ 6. WAREHOUSE RECEIPTS, WHAT TO CONTAIN.] All owners of such elevators and warehouses shall, upon the request of any person delivering grain at such warehouse, give a warehouse receipt therefor, subject to the owner or consignee, which receipt shall bear date corresponding with the receipt of the grain, and shall state upon its face the quantity and grade fixed upon the same. All warehouse receipts issued for grain received shall be consecutively numbered, and no two receipts bearing the same number and series shall be issued during the same year. No warehouse receipt shall be issued except upon actual delivery of grain into such warehouse. No such warehouseman shall insert in any warehouse receipt issued by him any language in anywise limiting or modifying his liability as imposed by the laws of this State.

§ 7. WHAT STORAGE RECEIPTS SHALL EXPRESS.] Any storage receipt issued within the boundaries of this State shall provide by express agreement that at the option of the original holder of such receipt the kind, quality and quantity of grain for which such receipt was issued shall be delivered back to him at the same place where it was received, upon the payment of a reasonable charge per bushel for receiving, handling, storing and insurance charges, such charges to be fixed by express terms in the storage receipt at the time of receiving the grain at the elevator or warehouse, and at the time of issuing the receipt; *Provided*, That no charges shall be made for cleaning grain unless such grain has been actually cleaned; *Provided, further*, Nothing in this section shall be construed to mean the delivery of the identical grain specified

in the receipt so presented; but an equal amount of the same grade, excepting in case of wheat placed in special bin.

§ 8. BAILMENT NOT A SALE — INSOLVENCY.] Whenever any grain shall be delivered to any person, association, firm, corporation or trust, doing a grain, warehouse or grain elevator business in this State, and the receipts issued therefor, providing for the delivery of a like amount and grade to the holder thereof in return, such delivery shall be a bailment, and not a sale of the grain so delivered; and in no case shall the grain so stored be liable to seizure upon process of any court in action against such bailee, except actions by owners of such warehouse receipts to enforce the terms of the same, but such grain shall at any and all times, in the event of the failure or insolvency of such bailee, be first applied exclusively to the redemption of outstanding warehouse receipts for grain so stored with such bailee. And in such event grain on hand in any particular elevator or warehouse shall first be applied to the redemption and satisfaction of receipts issued from such warehouse.

§ 9. LARCENY—PUNISHMENT.] Every person and every member of any association, firm, trust or corporation doing a grain, warehouse or grain elevator business in this State, who shall after demand, tender and offer as provided in Section 8 of this act, willfully neglect or refuse to deliver, as provided by said Section 8, to the person making such demand, the full amount of grain or the grade or market value thereof which such person is entitled to demand of such bailee, shall be deemed guilty of larceny and shall, on conviction thereof, be punished by a fine or imprisonment or both, as is prescribed by law for the punishment for larceny.

§ 10. ATTORNEY GENERAL—STATES ATTORNEY.] The Attorney General of the State shall be *ex-officio* attorney for the Railroad Commissioners and shall give them such counsel and advice as they may from time to time require, and he shall institute and prosecute any and all suits which said Railroad Commissioners may deem expedient and proper to institute, and he shall render to such Railroad Commissioners all counsel, advice and assistance necessary to carry out the provisions of this act or any law which said Commissioners are required to enforce according to the true intent and meaning thereof. In all criminal prosecutions against a warehouseman for a violation of any of the provisions of this act, it shall be the duty of the states attorney of the county in which such prosecution is brought to prosecute the same to a final issue.

§ 11. RATES TO BE ESTABLISHED AND MAINTAINED.] The charges for storage and hauling [handling] grain shall not be greater than the following schedule: For receiving, elevating, insuring, delivering and twenty days' storage, two (2) cents per bushel. Storage rates after the first twenty days, one-half ($\frac{1}{2}$) cent for each fifteen days or fraction thereof, and shall not exceed

five (5) cents for six months. The grain shall be kept insured at the expense of the warehousemen for the benefit of the owner.

§ 12. PENALTY FOR THE VIOLATION OF THE PROVISIONS OF THIS ACT.] That any person, association, firm, trust or corporation, or any representative thereof, who shall knowingly cheat or falsely weigh any wheat or other agricultural products, or who shall violate the provisions of any section of this act, or shall do or perform any act or thing therein forbidden, or who shall fail to do and keep the requirements as herein provided, shall be deemed guilty of a misdemeanor and shall, on conviction thereof, be subjected to a fine not less than two hundred (200) dollars nor more than \$1,000, and be liable in addition thereto to imprisonment for not more than one year in the State Penitentiary, at the discretion of the court.

§ 13. REPEAL.] Chapter 130, passed by the Seventeenth Legislative Assembly of the Territory of Dakota, approved March, 1887, and Chapter 187 and Chapter 138 of the Laws of 1890 and Chapter 62, passed by the Eighteenth Legislative Assembly of the Territory of Dakota, approved March 8, 1889, and all other acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

§ 14. EMERGENCY.] That, whereas, an emergency exists in that there is at present no code of intelligible warehouse laws upon the statute books of North Dakota, therefore this law shall be in force and effect from and after its passage and approval.

Approved March 7, 1891.

WOOL MARKET.

CHAPTER 127.

[H. B. No. 9.]

PROVIDING FACILITIES FOR MARKETING AND SHIPMENT OF WOOL.

AN ACT to Provide Facilities for Marketing Wool.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. MARKET, HOW ESTABLISHED.] If any city, town or village of this State shall in any year provide a building or buildings wherein not less than 100,000 pounds of wool may be stored free of charge from June 15th to August 31st, both in-

clusive, it may direct its clerk to notify the Commissioner of Agriculture and Labor on or before May 1st in such year, of the fact that such provision has been made, stating the regulations established by such city, for receiving, storing and marking wool and the quantity of wool which will probably be marketed at such city in that year.

§ 2. PROCLAMATION BY COMMISSIONER OF AGRICULTURE AND LABOR.] The Commissioner of Agriculture and Labor shall thereupon, under advice with such city or cities, make proclamation to the sheep raisers of this State, to the manufacturers of woolen goods and to the wool buyers of this State and other states by notices in newspapers, circulars and such other means as he shall deem most effective, that a wool market will be held at such city or cities, naming the same, stating the beginning and duration of such market, the provision of free storage, the quantity of wool likely to be received, and such other facts and particulars as he may deem proper for publication.

§ 3. WOOL TO BE HELD FREE OF LIENS, ETC.] Any person purchasing any wool while the same is stored in any building, as provided for in Section 1 of this act, between June 15th and August 31st, both inclusive, shall hold the wool so purchased free and clear of any and all liens, claims and encumbrances of which he does not have actual notice at the time when he shall purchase and pay for the same, and such purchaser shall not be liable in any action at law or otherwise, either for the delivery of such wool or for the damages to the holder of any lien or encumbrance on such wool.

§ 4. EXPENSES OF COMMISSIONER.] The commissioner of agriculture and labor shall make a verified and itemized statement of his expenses and disbursements incurred and made under the provisions of this act and file the same with the State Auditor, who shall thereupon issue his warrants on the State Treasurer therefor, but such warrants shall not in the aggregate in any one year exceed the sum of \$1,000.

§ 5. EMERGENCY.] Whereas, it is desirable that provision may be made prior to July 1, 1891, for the establishment of wool markets as herein provided; therefore an emergency exists, and this act shall be in force from and after its passage and approval.

Approved February 26, 1891.

WORLD'S FAIR.

CHAPTER 128.

[S. B. No. 6.]

PROVIDING FOR DISPLAY AT WORLD'S FAIR.

AN ACT to Provide for the Collection, Arrangement, and Display of the Products of the State of North Dakota at the World's Columbian Exposition of 1893.

WHEREAS, The Congress of the United States has provided, by an act approved April 25, 1890, for celebrating the four hundredth anniversary of the discovery of America by Christopher Columbus by holding an international exhibition of arts, industries, manufactures, and the products of the soil, mine and sea, in the City of Chicago, in the State of Illinois, in the year 1893; and

WHEREAS, It is of great importance that the natural resources, industrial development and general progress of the State of North Dakota should be fully and creditably displayed to the world at the said Exposition; therefore,

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. COMMISSION, HOW DESIGNATED.] That for the purpose of exhibiting the resources, products and general development of the State of North Dakota at the World's Columbian Exposition of 1893, a commission is hereby constituted, to be designated the Board of World's Fair Managers of North Dakota, which shall consist of five citizens, to be organized and continue its duties as hereinafter provided.

§ 2. BOARD, HOW APPOINTED—POWER.] The members of said Board shall be appointed by the Governor within thirty days after the passage of this act, and shall meet at such time as the Governor may appoint, and organize by the election of a president and secretary. Three members of said Board shall constitute a quorum for the transaction of business. The Board shall have power to make rules and regulations for its own government, provided such rules and regulations shall not conflict with the regulations adopted under the Act of Congress for the government of said World's Columbian Exposition. Any member of the Board may be removed at any time by the Governor for cause. Any vacancy which may occur in the membership of said Board shall be filled by the Governor.

§ 3. COMPENSATION.] The members of the Board appointed under this act shall not be entitled to any compensation for their services out of the State Treasury except their actual expenses for transportation and the sum of five (dollars) per day for subsistence for each day they are necessarily absent from their homes on the business of said Board.

§ 4. EXECUTIVE MANAGER.] The Board of World's Fair Managers is authorized and directed to appoint an executive manager and to fix his salary, subject to the approval of the Governor, which shall be payable monthly, and said executive manager shall be authorized and required to assume and exercise, subject to the supervision of said board, all such executive powers and functions as may be necessary to secure a complete and creditable display of the interests of the State at the World's Columbian Exposition of 1893; and, as the executive manager of the said board, he shall have personal charge of the solicitation, collection, transportation, arrangement, and the exhibition of the objects sent under the authority of the State to the World's Columbian exposition of 1893, and of such objects sent by individual citizens of the State as may be by them placed in his charge. He shall make a report to the Board monthly and shall hold office at the pleasure of the Board.

§ 5. EX-OFFICIO MEMBERS OF WORLD'S FAIR MANAGERS.] The World's Columbian Commissioners and the Board of Lady Managers of the World's Columbian Commission from the State of North Dakota, and their respective alternates shall be *ex-officio* members of the Board of World's Fair Managers hereby created; *Provided*, That the said Commissioners, Lady Managers and their respective alternates shall not be entitled to receive any compensation from the State of North Dakota as such *ex-officio* members of said Board, except actual traveling expenses necessary to attend said Board meetings.

§ 6. DUTIES OF BOARD.] The said Board shall have charge of the interests of the State and its citizens in the preparation and exhibition, at the World's Columbian Exposition of 1893, of the natural and industrial products of the State, and of the objects illustrating its history, progress, moral and material welfare and future development, and in all other matters relating to the said World's Columbian Exposition; it shall communicate with the officers of and obtain and disseminate through the State all necessary information regarding said Exposition, and in general have and exercise full authority in relation to the participation of the State of North Dakota and its citizens in the World's Columbian Exposition of 1893.

§ 7. REPORT TO GOVERNOR.] The said Board shall make a report of its proceedings and expenditures from time to time to the Governor, and at any time, upon his written request, to be by him transmitted to the Legislature, together with such suggestions as he may deem important regarding provisions for a complete and

creditable representation of the State at the World's Columbian Exposition of 1893.

§ 8. STATE TREASURER TO DISBURSE FUNDS.] All money or moneys collected by or donated to the Board of World's Fair Managers of North Dakota shall be covered into the State Treasury and be paid out in the manner as money appropriated by the State for that purpose.

§ 9. EMERGENCY.] Whereas, an emergency exists in that the time is limited during which the Board hereby created has to perform its duties, and it is necessary said Board shall begin its labors immediately, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 6, 1891.

MISCELLANEOUS.

CHAPTER 129.

[H. B. No. 94.]

ATTACHING TOWNSHIPS TO RAMSEY.

AN ACT Providing for the Attaching of Certain Townships to Ramsey County.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. TOWNSHIPS ATTACHED.] That the district of country known as townships 155, 156, 157 and 158, north of range 60 and 61 west, in the State of North Dakota, is hereby attached to and made a part of the county of Ramsey.

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

Approved March 4, 1891.

CHAPTER 130.

[H. B. No. 230.]

ATTACHING CERTAIN TOWNSHIPS TO RAMSEY COUNTY.

AN ACT Attaching a Portion of Township 151 North, Range 62 West, Situated in the County of Benson, to the County of Ramsey.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. TOWNSHIP TRANSFERRED, HOW.] That that portion of township 151 north, range 62 west, situated in the county of Benson, is hereby attached to and made a part of the county of Ramsey; *Provided*, That it shall be submitted to the voters of Ramsey and Benson counties at the next general election, and it shall require a majority of the votes in each of the counties named herein to so attach the same.

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

Approved March 6, 1891.

CHAPTER 131.

[S. B. No. 17.]

RESTORING PARCEL OF LAND TO ELK VALLEY FARMING COMPANY.

AN ACT Authorizing the Governor of the State of North Dakota to Restore to the Elk Valley Farming Company a Parcel of Land Conveyed to the Territory of Dakota, According to the Provisions of Section 1, Chapter 13, of the Special Laws of 1883.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. GOVERNOR TO EXECUTE DEED.] The Governor of the State of North of North Dakota is hereby authorized to convey to the Elk Valley Farming company the title, in fee simple, to all that parcel or lot of land now owned by the State of North Dakota that constitutes a part of the southwest quarter of section 12, township 151 north, of range 25 west, situate in the county of Grand Forks and State of North Dakota.

§ 1. EMERGENCY.] There being an emergency in this, that the interests of the Elk Valley Farming company demand im-

mediate possession of said land, this act shall take effect from and after its passage and approval.

Approved January 31, 1891.

CHAPTER 132.

[S. B. No. 198.]

RELATING TO DIRECTORS OF INSANE ASYLUM.

AN ACT to Amend Section 8, of Chapter 68, of the General Laws of 1885, Entitled "An Act Establishing the North Dakota Hospital for the Insane and Providing for the Government of the Dakota Hospitals for the Insane."

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 8, of Chapter 68, of the General Laws of 1885, entitled "An Act establishing the North Dakota Hospital for the Insane and providing for the government of the Dakota Hospitals for the Insane," be and the same is hereby amended to read as follows:

Sec. 8. GENERAL POWERS AND DUTIES.] The Board of Trustees shall have general control and management of their hospital; shall make all by-laws, rules and regulations necessary for the government of the same not inconsistent with the laws of the State; they shall appoint a superintendent, who shall be a physician of acknowledged skill and ability, a graduate of a reputable regular medical college, and of good moral character; one or more assistant physicians, who shall be of like skill and ability and a graduate of a medical college, as aforesaid, when the superintendent shall deem such appointment necessary; a steward and matron, all of whom shall be styled the resident officers of the hospital, and shall reside therein and shall be governed by the laws and by-laws established for the same. The salaries of the resident officers of the North Dakota Hospital for the Insane shall be per annum as follows: Superintendent, \$2,500; Steward, \$1,200; First Assistant Physician, \$1,200; Matron, \$500; the salaries of other assistant physicians to be fixed and regulated by the board of trustees according to length and quality of service, not, however, to exceed \$1,000 for any one. The salaries shall be audited and paid monthly out of the State Treasury upon the presentation of the proper voucher therefor, duly verified, which voucher shall be approved by the president of the board of trustees and countersigned by the secretary.

§ 2. REPEAL.] All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

Approved March 7, 1891.

CHAPTER 133.

[S. B. No. 172.]

MANAGEMENT OF DEAF AND DUMB ASYLUM.

AN ACT to Amend Section 2, Chapter 161, of Session Laws of 1890, Entitled "An Act to Create an Institute for the Education of the Deaf and Dumb of North Dakota, and Providing for its Support and Management."

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 2, of Chapter 161 be made to read as follows:

Sec. 2. MANAGEMENT—BOARD, AND HOW APPOINTED.] That the said school shall be under the supervision of a board of trustees consisting of five persons, who shall be appointed by the Governor within thirty days after the passage of this bill, by and with the advice and consent of the senate. Said trustees shall hold office for a term of two years, and until their successors are appointed and qualified, subject to removal for cause. When a vacancy occurs in said board by death, resignation or removal, and the senate shall not be in session, the Governor shall have power to fill such vacancy by appointment. It being necessary that the above board of trustees should be appointed before the present Legislative Assembly adjourns an emergency exists, and this act shall take effect and be in force from and after its passage and approval.

Approved February 26, 1891.

RESOLUTIONS.

CHAPTER 134.

[H. B. No. 166.]

MEMORIAL TO CONGRESS IN RELATION TO MILITARY WOOD RESERVATION.

Joint Memorial of the Senate and House of Representatives of the State of North Dakota, to the Senate and House of Representatives of the United States, Asking that the United States Military Wood Reservation on Rock Island, (now a Peninsula), Ramsey County, North Dakota, be Donated to the State of North Dakota, for the Benefit and Use of the Militia of said State, to be Used for Encampment Grounds and Other Purposes.

Be it Resolved by the Legislative Assembly of the State of North Dakota:

THAT the Honorable, the Congress of the United States, be respectfully requested to grant to the State of North Dakota, for the benefit of the militia of said State, that portion of the public domain known as the United States Military Wood Reservation, and situated or being on Rock Island, (now a peninsula) Ramsey county, North Dakota, or more particularly described as follows: That portion of township 153 north, of range 64, west of the fifth principal Meridian, State of North Dakota, bounded on the north by the north line of the United States Military Wood Reservation, and on the east, south and west sides by the north shore of Devils Lake, to be used as encamping grounds and for other purposes, to be defined by the Legislative Assembly of the State of North Dakota.

Resolved, That the Secretary of State is requested to forward copies of this resolution to each of our Senators and Representative in Congress at as early a day as may be expedient.

Approved March 11, 1891.

CHAPTER 135.

A JOINT MEMORIAL TO CONGRESS FOR MAINTENANCE OF FORT
TOTTEN MILITARY RESERVATION.

To the Honorable, the Congress of the United States:

THE people of the State of North Dakota in Legislative Assembly convened respectfully represent:

That the Military Reservation known as the Fort Totten Reservation, which has been abandoned as a military post by order of the War Department, is situate nearly in the center of the State north and south, and that it is essential to the peace and prosperity of the entire State that it should be maintained and supported as a military reservation with troops sufficient to afford at least moral assistance and material aid when any emergency arises, should be stationed there. That while there may exist no cause for alarm from Indians residing upon the reservation contiguous thereto, it should be borne in mind that across the boundary line, and not many miles distant, live the renegade "Sisseton" and their descendants, who participated in the massacre of the whites in '62 in Minnesota. That these Indians have persistently refused to acknowledge allegiance to the United States, and remain across the border as a standing menace to the peace and safety of all the settlers living in the north and northwestern portion of our State.

That in the judgment of your memorialists the maintenance of Fort Totten as a military post is essential to quiet the fears of the settlers in the sparsely settled northwest corner of the State, and as a restraining power upon the renegade Indians who have fled from the United States and sought the protection of the Queen's government.

Therefore, the people of the State of North Dakota, in Legislative Assembly convened, respectfully petition the Congress of the United States and the President of the United States, acting through the Secretary of War, to re-establish and maintain Fort Totten as a military post, with sufficient troops to assure the citizens of the State of North Dakota that they will be amply protected against any invasion from the Indians across the boundary line, as well as to assure them that the Indians now residing on the Fort Totten Reservation will continue and be required to maintain peaceful relations with all the people living contiguous to said reservation.

And the Congress of the United States is respectfully memorialized and petitioned to make a sufficient appropriation to maintain said post until such time as the people of the State of North Dakota become satisfied that their lives and property are not in

danger by any invasion from foreign Indians or by the Indians residing on such reservation, if such Indians should become turbulent and quarrelsome by reason of the absence of military power.

The present temper of the people of the State of North Dakota is such that they feel it to be absolutely necessary for their own welfare that this post should be maintained, and the troops that have been withdrawn therefrom should be sent back to the station, or such sufficient military force as will tend to allay existing fears.

That a copy of the foregoing Memorial signed by the President of the Senate and Speaker of the House of Representatives and attested by the Secretary of the Senate and Chief Clerk of the House of Representatives, be sent to the honorable Senators Gilbert A. Pierce and Lyman R. Casey and to the honorable Representative H. C. Hansbrough.

That the honorable gentlemen above mentioned, representing this State in the Congress of the United States, be and are hereby respectfully requested to present the Memorial to their respective Houses and to urge the passage of an act of Congress in accordance therewith.

I N D E X .

INDEX.

	Page
ACCOUNTS—	
system of keeping by state officers	81
ADOPTION OF CHILDREN	83
AGRICULTURAL COLLEGE—	
providing for board and meeting thereof.....	85
accepting provisions of act of congress.....	87
appropriating section of land.....	86
appropriation for buildings.....	92
treasurer custodian of funds.....	87
president to co-operate with superintendent of irrigation.....	218
AMENDMENTS—	
to sections 3 and 7, chapter 183, laws of 1890, relating to system of accounting by state officers.....	81
to section 1, chapter 175, laws of 1890, relating to transfer of certain county funds.....	83
to sections 3 and 5, chapter 160, laws of 1890, relating to appointment of board of directors agricultural college.....	85
to section 2027, title III, part II, of civil code, relating to assignments.....	110
to article 15, chapter 73, laws of 1887, relating to incorporation of cities.....	123
to sections 407 and 538, civil code, in relation to incorporation of certain institutions.....	127
to section 3, chapter 72, laws of 1890, relating to incorporation of certain benevolent institutions.....	128
to sections 695 and 697, of penal code (6886 and 6888, compiled laws).....	140
to sections 3, 4, 7, 8, 22, 24, 32, 37, 40, 55, 66, 67, 68, 74, 75, 79, 81, 83, 86, 87, 101, 110, 122, 135, 136, 137, 140, 143, 144, 148, 167, 169 and 192, chapter 62, laws of 1890, in relation to public schools.....	141-156
to sections 90, 91, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, chapter 62, laws of 1890, in relation to public schools.....	156-161
to section 15, chapter 64, laws 1890, in relation to school bonds..	163
to section 33, chapter 62, laws 1890, in relation to county superintendent of schools.....	164
to sections 2, 5, 6 and 11, chapter 146, laws 1890, in relation to lease and sale of school lands.....	167
to sections 2 and 6, chapter 58, laws 1887, in relation to protection of game.....	192
to section 2, chapter 59, laws of 1887, in relation to protection of game.....	193
to sections 1 and 2, chapter 63, laws 1883, in relation to protection of game.....	193
to section 2, article 1, chapter 1, justices code, revised codes of 1877, relating to jurisdiction.....	222
to section 1, chapter 82, laws of 1887, relating to change of venue	223
to section 26, chapter 119, laws of 1890, in relation to distribution of laws.....	227
to section 2, chapter 91, laws of 1890, in relation marriageable age	228

AMENDMENTS—Continued.	
to chapter 102, laws 1890	253
to section 1, chapter 114, laws 1890, in relation to public credit..	258
to section 6, chapter 2, laws 1890, relating to common carriers..	259
to section 8, chapter 122, laws 1890, relating to common carriers..	260
to section 2, chapter 124, laws 1890, regulating shipments of live stock and grain	262
to section 20, chapter 119, laws 1890, relating to printing of re- ports	265
to chapter 132, laws 1890, relating to revenue and taxation	266
to section 160, civil code, relating to personal property	275
to section 1, chapter 139, laws 1890, relating to corporation fees..	279
to section 6, chapter 152, laws 1890, relating to seed grain	283
to sections 1 and 7, chapter 150, laws 1890, relating to liens upon crops	285
to sections 11 and 13, chapter 152, relating to seed grain bonds..	286
to section 18, chapter 152, laws of 1890, relating to seed grain bonds	287
to chapter 46, laws of 1890, relating to statistics	292
to section 25, chapter 120, laws of 1891, regulating appeals	311
to section 28, chapter 120, laws of 1891, regulating appeals	312
to section 7, chapter 171, laws of 1890, relating to publication supreme court reports	313
to section 8, chapter 68, laws of 1885, relating to insane hospital	330
to section 2, chapter 161, laws of 1890, relating to deaf and dumb asylum	331
ANIMALS—	
penalty for cruelty to	140
APPEALS—	
from district to supreme court	304
amendment, or perfection of	309
APPROPRIATIONS—	
university	96
soldiers home	98
committee rooms	91
clerk hire in state offices	89
agricultural college	93
deaf and dumb asylum, building	94
for John A. McLean	102
normal school, Valley City	97
militia, for maintenance	244
mileage and per diem of legislature	88
maintenance, public offices	90
Indian outbreak expenses	98
maintenance Mayville normal school	101
selecting public lands	102
insane asylum, maintenance	93
salaries of state officers	90
relief of destitute	100
James M. Gleason	104
analysis of sugar beet and coal	99
penitentiary	95
veterinary surgeon, salary and expenses	319
potato starch	101
Milnor normal school	252
water supply, insane asylum	94
world's fair	103
compilation of laws	100
library—state superintendent of public instruction	104

ARTESIAN WELLS—	
townships to issue bonds.....	105
to encourage construction of.....	107
bonds, how voted and issued.....	105
funds, how paid out and tax levy for interest on bonds.....	106
wells, how located and fees of treasurer.....	106
defining rights and liabilities of persons constructing wells.....	107
penalty for interfering with artificial water courses.....	109
right of way on school lands.....	109
ARTICLES OF INCORPORATION—	
certain benevolent institutions.....	128
prescribing number and power of directors certain institutions.....	127
ASSESSORS—	
to make list of persons liable to military duty.....	229
to gather statistics.....	288
fees for gathering statistics.....	290
ASSIGNMENT—	
amending civil code.....	110
ATTORNEY GENERAL—	
appropriation for clerk hire.....	89
duties of, in relation to insurance companies.....	196-212
member board of equalization.....	268
enforce payment of delinquent taxes, when.....	277
duties in relation to state veterinarian.....	319
<i>ex-officio</i> attorney for railroad commissioners.....	323
ATTORNEYS—	
regulating admission of.....	302
AUDITORS, COUNTY—	
fixing salary of.....	135
allowance for deputies.....	136
duties in relation to election law.....	177
to issue deeds to real estate.....	281
fees for appraising school lands.....	170
duties in relation to elections.....	171-184
to provide assessment books, etc.....	267
duty in relation to cancellation of certain illegal taxes.....	277
to furnish statistics.....	291
AUDITOR, STATE—	
duty in relation to accounts.....	84
to draw warrants for per diem and mileage for legislature.....	88
to draw warrants for payment of clerk hire in state offices.....	89
appropriation for clerk hire.....	89
to draw warrants in payment of salaries of state officers.....	90
to allow accounts incurred for relief of destitute.....	100
to draw warrants for world's fair.....	103
duties in relation to issue of state bonds.....	113
duty in relation to state tuition fund.....	157
to draw warrants for compilers.....	225
duties of, in relation to normal schools.....	249
draw warrants for Milnor normal school.....	252
member board of equalization.....	268
to construe revenue act.....	274
member of commission to adjust delinquent taxes.....	275
duties in relation to state veterinarian.....	316
AUSTRALIAN ELECTION LAW—(see Elections.)	

BALLOTS—	
official, how printed and distributed	176
BLIND ASYLUM—	
providing for location of	111
land grant	111
BOARD OF EQUALIZATION—	
to levy state tax	268
to levy tax for interest on bonds	113
BOARD OF SUPERVISORS—	
duties of chairman in relation to election law	175
BOARD OF UNIVERSITY AND SCHOOL LANDS—	
duties as to lease and sale of lands (amendment to law of 1890)	167
duties in relation to selection of public lands	102
may grant right of way for artificial water courses	110
BONDS—	
state, authorized	113
authorizing civil townships to issue bonds for seed grain	116
of treasurer of agricultural college	88
for artesian wells	105
registration of state	115
authorizing certain school districts to refund bonded indebtedness	161
authorizing independent school districts to issue	163
for state normal schools	248
BRANDS AND EARMARKS—	
unlawful branding	122
regulating use of	119
preventing illegal branding	122
duties of secretary of state	119
duties of register of deeds	119
how to obtain exclusive brands	121
fee of secretary of state for recording	121
CANDIDATES—	
how nominated under Australian election law	171
certificates of nomination, when made and filed	172
CANVASSING BOARD—	
legalizing acts thereof	283
CAPITOL—	
appropriation for maintenance	90
CITIES—	
amending law of 1887 for incorporation of	123
CLERK HIRE—	
for state officers	89
CLERKS OF DISTRICT COURT—	
fees of	190
COAL NATIVE—	
where to be used	125
COMMISSIONER OF AGRICULTURE AND LABOR—	
amending law prescribing duties	292
duties in relation to statistics	288
appropriation for clerk hire	89
to expend money for relief of destitute	100
duties in relation to wool markets	325

COMMISSIONER OF INSURANCE—	
appropriation for clerk hire.....	89
duties of in relation to incorporation of insurance companies...	196-212
COMMISSIONERS OF RAILROADS—	
appropriation for clerk hire.....	89
duties in relation to warehouses, weighing and handling of grain, etc.....	321
COMMON CARRIERS—(see <i>Railroads</i> .)	
COMPILATION—	
of the laws.....	224
commission, how constituted.....	224
CONDEMNATION PROCEEDINGS—	
for irrigation purposes.....	216
CONSTITUTIONAL AMENDMENTS—	
publication of.....	126
increasing state debt limit ..	125
against lotteries.....	127
CONSTITUTION—	
of state of North Dakota.....	15-61
index to.....	63-68
CORPORATIONS—	
amending civil code in relation to incorporation of certain insti- tutions.....	127
amending act of 1890, relating to incorporation of certain benev- olent institutions.....	128
relating to casualty and life insurance companies.....	196
fees for filing articles of.....	279
CRUELTY TO ANIMALS—	
amendment to penal code.....	140
COUNTIES—	
increase and change of boundaries.....	129
transfer of certain funds.....	82
attaching certain to Ward for judicial purposes.....	219
to McHenry.....	219
COUNTY COMMISSIONERS—	
duties of in relation to election law.....	171
power to dispose of certain real estate bought at tax sales.....	281
duties as to officers' report.....	264
to provide clerks for county officers.....	136
duties in relation to prairie fires.....	256
duties in relation to transfer of county funds.....	83
duties of certain boards in relation to special elections.....	132
fees of chairman for appraising school lands.....	170
duties in relation to elections.....	171-184
to offer bounty on wolf scalps.....	194
may levy tax for immigration purposes.....	195
duties in relation to irrigation.....	213
duties in relation to noxious weeds.....	253
duty in relation to cancellation of certain illegal taxes.....	277
COUNTY COURTS—	
jurisdiction, practice and procedure.....	133
clerk hire.....	135
duties in relation to adoption of children.....	84

COUNTY OFFICERS—	
fixing salaries of	135
DEAF AND DUMB ASYLUM—	
appropriation for buildings	94
appropriation for maintenance	93
providing for board of trustees	331
DISTRICT COURTS—	
regulating appeals in civil actions	304
time of holding in fifth district	220
DISTRICTS, JUDICIAL—	
attaching certain counties to Ward	219
to McHenry	219
DOGS—	
made personal property	275
EDUCATION—	
authorizing certain districts to refund indebtedness	161
fixing salary county superintendent	164
repealing special school laws	165
section 41, laws of 1890	161
appropriation for library, state superintendent	104
requiring Scandinavian languages taught at state university	162
authorizing independent school district to issue bonds	163
repealing certain normal school act	167
amending law of 1890 relating to lease and sale of school lands	167
amendments to general law of 1890	141-161
in relation to supervision	141
in relation to school supplies	141
in relation to teachers' institutes	142
in relation to duties of teachers	142
in relation to office of county superintendent	143
in relation to organization of school district corporation	143
in relation to annexation of school corporations	144
in relation to election of county superintendent	144
in relation to custody of school funds	144
in relation to payment of warrants	145
in relation to furniture and library	145
in relation to employment and salaries of teachers	146
in relation to district tax levy	146
in relation to school house sites and organization of schools	147
in relation to consolidation of school districts	148
in relation to school census and annual report	148
in relation to tax levy	149
in relation to vacancies in school offices	150
in relation to teachers' grades and examinations	150
in relation to teachers' institutes and apportionment of funds	151
in relation to school age	153
in relation to prohibition of child labor	153
in relation to speculation in office	154
in relation to building school houses	154
in relation to cities governed by general act	155
in relation to election of boards of education	155
in relation to tuition fund	156
in relation to county treasurers' accounts	159
ELECTION—	
to change boundaries of certain counties	132
boards of education in special districts	155
legalizing acts of state board of canvassers	283

ELECTION LAW--(Australian)	
ballots, how printed	171
nomination of candidates for office	171
election precincts, how formed	172
where certificates of nomination to be filed.....	173
secretary of state to certify nominations for state offices	173
nominations to be published	173
vacancies on ticket and declination.....	173
elector may write name of candidate on ticket, when.....	174
inspector of elections and election board.....	175
duties of county superintendents.....	176
poll clerks.....	176
ballots, what to contain and how printed	176
ballots, distribution of.....	177
ballots, how delivered, official stamps.....	178
examination of ballots and box	178
election booths, how built.....	178
instructions to elector in preparation of ballot.....	179
penalty for casting illegal ballot.....	180
ballots, when void	181
penalty for destruction of election machinery.....	181
penalty for failure of public officer to attend to duties.....	181
electioneering prohibited	182
canvass of ballots and announcement of result	182
returns	183
compensation of officers	183
purchase and supply of ballot boxes	184
polls, when opened	184
ELK VALLEY FARMING COMPANY--	
governor to restore title to certain lands.....	329
ENABLING ACT	313
EXEMPTION--	
homestead defined.....	185
FEEES--	
clerks of district courts.....	190
of state officers, when turned over to treasurer	81
of board of directors agricultural college.....	86
for registry of state bonds	115
of township treasurer for handling proceeds of seed grain bonds	117
of township clerk for filing seed liens.....	117
for recording copy of brand.....	121
for publication of constitutional amendments.....	126
for conducting lease of school lands.....	170
of election officers.....	183
for appraising homesteads	187
of clerks of district courts.....	190
of certain insurance companies	212
for filing articles of incorporation.....	279
for publishing tax list	273
for making tax deed	282
GAME--	
protection of small game	192
big game	193
when unlawful to kill.....	192-194
wolf bounty.....	194

GOVERNOR—	
to appoint board of directors agricultural college.....	85
to approve clerical appointments.....	89
appropriation for clerk hire.....	89
to approve accounts for maintenance of capitol.....	91
to approve work of improving water supply for insane hospital	94
to approve expenditure moneys for destitute.....	100
to approve accounts world's fair.....	103
duties in relation to issue of state bonds.....	113
to appoint superintendent of irrigation.....	216
to appoint compilers of the laws.....	224
duties of in relation to state militia.....	229-244
to furnish arms to G. A. R. posts.....	245
duties of in relation to normal schools, appointment of directors, etc.....	246-251
duties in relation to paroling of prisoners.....	255
member of board of equalization.....	268
to appoint state veterinarian.....	314
power to issue quarantine proclamation.....	316
to appoint world's fair commissioners.....	326
to appoint board trustees deaf and dumb asylum.....	331
GRAIN WAREHOUSES—(see <i>Warehouses.</i>)	
GRAND ARMY—	
arms to G. A. R. posts.....	245
HOMESTEAD EXEMPTIONS—(see <i>Exemptios.</i>)	
IMMIGRATION—	
promotion of, by counties.....	195
INDEPENDENT SCHOOL DISTRICTS—	
amending law of 1890.....	163
INSANE ASYLUM—	
appropriation for maintenance.....	93
water supply.....	94
amendment to law prescribing duties of board.....	330
INSURANCE—	
incorporation of life and casualty.....	196-203
assessment companies.....	204-212
IRRIGATION—	
to promote same.....	213
appointment of superintendent, and duties.....	216
to encourage construction artesian wells.....	107
salary of superintendent.....	217
superintendent's annual report.....	218
JUDICIAL DISTRICTS—(see <i>Districts.</i>)	
boundaries of fifth.....	220
attaching certain counties to Ward.....	219
to McHenry.....	219
JUSTICE COURTS—	
change of venue.....	223
jurisdiction of.....	223
amending code of 1877.....	222
jurisdiction of.....	222
LAWS—	
compilation of.....	224
commission provided.....	224
appropriation for compilation.....	100
distribution of.....	227

LEGISLATURE—	
duties president pro tem. of senate.....	228
appropriation for committee rooms.....	91
mileage and per diem.....	88
LIENS—	
amendment law of 1890.....	285
for service of sire.....	299
LIVE STOCK AND GRAIN—	
regulating shipment of.....	262
LONG AND SHORT HAUL—(see <i>Railroads.</i>)	
LOTTERIES—	
proposed constitutional amendment.....	127
MARRIAGEABLE AGE.....	
	228
McHENRY COUNTY—	
certain counties attached for judicial purposes.....	219
MEMORIALS TO CONGRESS—	
in relation to military wood reservation.....	332
for maintenance Fort Totten military post.....	333
MILITIA—	
appropriation for.....	244
MILITARY CODE—	
who compose militia.....	229
assessor to make list.....	229
when militia called into service.....	229
militia known as North Dakota National Guard.....	230
governor, commander-in-chief.....	230
appointments and commissions.....	230
militia, how equipped and organized.....	230
who eligible to enlist.....	231
adjutant general and duties.....	232
inspector and judge advocate general.....	233
supply department.....	233
engineer and ordnance department.....	234
medical department.....	234
rank of officers.....	234
appointment of staff and elections.....	234
recruits and discharges.....	235
drill, discipline and uniform.....	235
codification of military law.....	236
annual encampment and drills.....	236
target practice.....	237
officers and men, how warned.....	237
power of commander-in-chief in case of disturbance.....	237
when troops may be called out.....	238
desertions and fines.....	238
courts martial.....	239
compensation of marshal of court.....	240
fines, how collected.....	240
compensation of officers and men.....	241
clothing and equipment fund.....	242
property exempt from taxation.....	242
exempt from jury duty.....	243
armory rent, officers' reports, etc.....	243
lost or stolen property, how valued.....	243
transportation.....	242

NORMAL SCHOOLS—	
appropriation for Valley City.....	97
Mayville	101
Milnor.....	252
repealing act of 1883.....	167
management of.....	246
meetings and compensation of boards.....	248
duties of officers	249
salaries of employees, principals and teachers.....	250
faculty, reports, etc.....	250
boards of management and board of directors	246
NOXIOUS WEEDS—	
prescribing manner of distruction.....	253
duty of county commissioners.....	253
publication of notice.....	253
when overseers shall destroy	253
tax against land.....	253
PAROLING PRISONERS.....	255
PARTIES—	
how determined	171
PENITENTIARY--	
appropriation for.....	95
paroling of prisoners	255
providing for water supply.....	96
appropriation for brick	102
POTATO STARCH—	
appropriation for bounty.....	101
PRAIRIE FIRES—	
prevention of.....	256
PUBLIC CREDIT—	
protection of	258
PUBLIC EXAMINER—	
member of commission to adjust delinquent taxes	275
PUBLIC LANDS—	
appropriation for selection of for state institutions.....	102
PUBLIC SCHOOLS—(see <i>Education.</i>)	
QUARANTINE—(see <i>Vetinary Surgeon.</i>)	
RAILROADS—	
regulation of	260
relating to shipment of live stock... ..	262
regulating long and short haul.....	259
cancelling certain illegal taxes.....	106
to burn right of way.....	258
transportation diseased stock prohibited.....	320
RAILROAD COMMISSIONERS—(see <i>Commissioners of Railroads.</i>)	
RAMSEY COUNTY—	
attaching townships to.....	328-329
REGISTER OF DEEDS—	
fixing salary of.....	136
duties in relation to brands.....	120
providing for deputy.....	137

REPEAL—	
of chapters 9 and 10, laws of 1890.....	89
an act of 1883 pertaining to the subdivision of the counties of Walette and Howard, Dakota territory.....	132
sections 1, 2, 3, 4 and 5, chapter 50, and sections 14 and 15, chap- ter 10, laws of 1887, relating to salaries of county officers.....	137
section 41, chapter 62, in relation to public schools.....	161
act of 1885, establishing independent school district, No. 1 Traill county.....	166
chapter 41, special laws 1881, relating to board of education for city of Bismarck.....	166
chapter 13, special laws, 1883, relating to territorial normal school.....	167
sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 15, 16, 17, 18 and 19, chapter 38, re- vised code of 1877, in relation to exemptions.....	189
chapter 162, laws of 1890, and chapter 163, laws of 1890, relating to normal schools of Mayville and Valley City.....	251
an act regarding noxious weeds, laws 1885.....	253
section 12, chapter 152, laws 1890, relating to seed grain bonds.....	287
chapters 2 and 16, code of civil procedure, and chapters 20 and 26, laws 1887, and sections 5213 and 5239 inclusive of compiled laws, regulating appeals.....	311
chapters 3 and 16, civil code, as published in Levissee's code.....	311
chapter 130, laws of 1887, and chapters 187 and 188, laws of 1890, and chapter 62, laws 1889, relating to warehouses.....	324
REPORTS—	
penalty for failure to make.....	264
authorizing certain special printed.....	265
monthly reports to county auditors.....	136
commissioner of agricultural and labor.....	294
of world's fair commissioners.....	327
REVENUE AND TAXATION—	
amendments to law of 1890.....	266-274
assessment of personal property.....	266
deduction of credits.....	267
assessment books and blanks.....	267
board of equalization.....	268
levy of tax.....	269
when taxes delinquent.....	269
tax deed.....	271
tax sales.....	273
powers of auditor.....	274
making dogs property.....	275
board of equalization to levy state tax.....	280
legalizing levy of 1890.....	278
adjustment of delinquent taxes.....	275
cancelling certain illegal railroad taxes.....	277
property of militia exempt.....	242
prescribing fees for filing articles of incorporation.....	279
extension of personal taxes 1890.....	280
county to dispose of real estate bid in for delinquent taxes.....	281
SALARIES—	
of clerks of state officers.....	89
of county officers, how determined.....	135
of county treasurer.....	137
of county superintendents, how determined.....	164
SCHOOL LANDS—	
lease of, and fees.....	167-170

SCHOOLS, PUBLIC—(see <i>Education</i> .)	
SECRETARY OF STATE—	
appropriation for clerk hire	89
duties in relation to brands and earmarks	119
to designate papers to publish constitutional amendments	126
duties in relation to Australian election law	171-184
SEED GRAIN LAW—	
amendments to	283
civil townships, to bond	116
SOLDIERS' HOME—	
appropriation for	98
STATES ATTORNEY—	
duties in relation to irrigation	215
duties in relation to state veterinarian	319
duties in relation to warehouse law	323
STATE OFFICERS—	
system of accounts	81
appropriation for salaries	90
STATE INSTITUTIONS—	
to use native coal	125
STATISTICS—	
amendment to laws of 1890 in relation to	292
assessors to collect	288
what statement shall contain	289
compensation of assessors	290
county officers to furnish	291
penalty for violation of act	291
duty of state statistician	292
expenses paid by state	292
STOCK—	
to protect stock raisers	298
unlawful branding	122
regulating use of brands	119
preventing illegal branding	122
sheep inspectors	295
duties of veterinary surgeon	57
penalty for driving stock off range	123
diseased sheep to be quarantined	295
duty of sheep inspectors	296
oath and bond of inspectors	296
penalty for spreading infection	296
salary of inspector	297
penalty for disposing of property covered by lien	299
appointment and duties of veterinary surgeon	314
when stock may be quarantined	316
regulations in case of disease	318
county sheep inspectors to report to state veterinarian	319
SUPERINTENDENT OF PUBLIC INSTRUCTION—	
appropriation for clerk hire	89
appropriation for library	104
amendment to laws of 1890, in relation to duties of	141
president board of directors of normal schools	247
duties in relation to Milnor normal school	252

SUPERVISORS—	
duties in relation to prairie fires	256
duties in relation to artesian wells	105
to levy tax for interest on seed grain bonds	117
SUPREME COURT—	
regulating practice in	300
publication of reports	313
regulating appeals from district courts	304
admission of attorneys	302
TAXES—	
extension of	280
adjustment of delinquent	275
TAX DEED—	
form of	271
TREASURERS, COUNTY—	
regulating salaries of	137
registering warrants	139
duty in relation to collection of state taxes	81
deficiency in salary, how made up	136
deputies, when may be had	138
duties in relation to school funds	160
duties in relation to irrigation matters	214
TREASURER, STATE—	
duty in relation to fees	81
duty in relation to certain state funds	82
to pay over funds to agricultural college	88
appropriation for clerk hire	89
duties in relation to issue of state bonds	113
to register certain bonds	115
duty in relation to state tuition fund	157
to keep normal school funds	249
to disburse world's fair funds	328
UNEXPENDED BALANCES—	
transfer of certain counties	83
UNIVERSITY—	
appropriation for	96
Scandinavian language taught	162
USURY—	
make taking a misdemeanor	313
VETERINARY SURGEON—	
duties as to sheep inspection	295
appointment and duties	314
deputies	315
compensation	316
report to governor	317
report contagious diseases	317
salary, traveling expenses, qualifications, etc.	319
term of office and bond	319
where stock to be quarantined	319
county sheep inspectors to report	319
sheep inspection	320
transportation diseased stock prohibited	320
WARD COUNTY—	
counties attached for judicial purposes	219

WAREHOUSES, GRAIN—	
regulation of	321-324
duties of railroad commissioners in relation to	321
rules to be published	321
public warehouses defined	321
bond of warehouseman	322
warehouse receipts, what to contain	322
storage receipts	322
bailment not a sale	322
rates for handling grain	324
penalty for violation of law	324
WARRANTS—	
registration of county	139
WATERWORKS—	
assessment for operating and owning in cities	124
WEEDS—	
noxious	253
WOLF BOUNTY—	
amending law of 1890	194
WOOL MARKET—	
establishment of	324
WORLD'S FAIR—	
providing commission for	326
appropriation for	103
compensation of commissioners	327
executive manager	327
duties of board	327