

# LAWS

PASSED AT

THE FIRST SESSION

OF THE

# LEGISLATIVE ASSEMBLY

OF THE

STATE OF NORTH DAKOTA.

BEGUN AND HELD AT BISMARCK, THE CAPITAL OF SAID STATE, ON  
TUESDAY, THE NINETEENTH DAY OF NOVEMBER, A. D. 1889,  
AND CONCLUDED MARCH EIGHTEENTH, A. D., 1890.

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BISMARCK, DAK.:  
TRIBUNE, PRINTERS AND BINDERS.  
1890.

# 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 section 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 land 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 percentum 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 States 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 eighth 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 judgements 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.]

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## 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 libels 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 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 any 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, a 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, Mountrail, 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 executors, 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 appraisal, 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 and 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 a 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 not 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 irrevocable 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 Representatives 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 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 proposed 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 an 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 land 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 to 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, Beaulieu, 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 Center, 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 La-Moure, 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 acts 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 by law, viz:

First. A Soldiers' Home, when located, or such other charitable institution as the Legislative Assmby 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 election 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 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,

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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 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.....	28	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	32
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.

---

### APPORTIONMENT.

CHAPTER 1—An act to attach certain townships to the third legislative district .....	85
--	----

### APPROPRIATIONS.

CHAPTER 2—An act providing for an appropriation for the maintenance of the Hospital for the Insane at Jamestown.....	86
CHAPTER 3—An act providing for an appropriation for the current and contingent expenses of the Penitentiary at Bismarck and for making needed permanent improvements.....	87
CHAPTER 4—An act making an appropriation for the State University and to fix the salaries of the president and professors of the same...	88
CHAPTER 5—An act for the appropriation of monies for the payment of mileage, per diem and salaries of members and employes of the first Legislative Assembly of the State of North Dakota and authorizing the payment thereof.....	89
CHAPTER 6—An act to appropriate money to pay the per diem of members, officers and employes of the Legislative Assembly.....	90
CHAPTER 7—An act making an appropriation for the payment of the salaries of the various State officers for the fourteen months ending December 31, 1890.....	90
CHAPTER 8—An act authorizing the Governor, Treasurer and Secretary of State to provide furniture and supplies for the various State offices, and making an appropriation therefor.....	91
CHAPTER 9—An act providing clerk hire for the various State offices, and making appropriation therefor.....	92
CHAPTER 10—An act entitled "An act to amend Section 1 of an act entitled 'An act providing clerk hire for the various officers and making appropriations therefor,' " approved December 19, 1889....	93
CHAPTER 11—An act making an appropriation for the payment of the stationery and supplies purchased for the Legislative Assembly....	93
CHAPTER 12—An act appropriating money for the maintenance of the public offices of the State.....	94
CHAPTER 13—An act entitled "An act to appropriate money to pay amounts due the militia of the Territory of Dakota".....	95
CHAPTER 14—An act to provide for the issuing of warrants for the payment of the expenses of the Constitutional Convention in excess of the amount appropriated by Congress therefor, and to provide for the redemption of said warrants.....	96
CHAPTER 15—An act appropriating money to pay certain newspapers for publishing the Constitution of the State of North Dakota.....	97

CHAPTER 16—An act to provide for the copying of certain records and making an appropriation therefor.....	97
CHAPTER 17—An act to appropriate money for the relief of the destitute persons in North Dakota.....	98
CHAPTER 18—An act making an appropriation for certain printing.....	99
CHAPTER 19—An act to reimburse the compiler and printer of Long's Legislative Hand Book for the year 1889.....	99
<b>ARBITRATION.</b>	
CHAPTER 20—An act providing for the establishment of tribunals of conciliation or arbitration.....	101
<b>ATTORNEY GENERAL.</b>	
CHAPTER 21—An act to prescribe the bond, oath and duties of the Attorney General.....	104
<b>AUDITOR.</b>	
CHAPTER 22—An act to repeal Sections 1 and 3, of Chapter 7, of the Political Code, being Sections 68 and 70, of Chapter 5, of the Compiled Laws of 1887.....	106
<b>BANKING.</b>	
CHAPTER 23—An act to provide for the organization and government of State Banks.....	106
<b>BOARD OF AGRICULTURE.</b>	
CHAPTER 24—An act to provide for the annual exhibits of the agricultural, stock breeding, horticultural, mining, mechanical, industrial and other products and resources of the State of North Dakota, and to provide for a State Board of Agriculture.....	114
<b>BOARD OF UNIVERSITY AND SCHOOL LANDS.</b>	
CHAPTER 25—An act providing for the organization, and fixing and defining the powers and duties of the Board of University and School Lands, and making an appropriation therefor.....	119
<b>BOARDS OF HEALTH.</b>	
CHAPTER 26—An act to amend Section 7 of Chapter 63 of Session Laws of 1885, relating to boards of health, being Section 198 of Compiled Laws of 1887.....	123
<b>BOILER INSPECTION.</b>	
CHAPTER 27—An act to establish a Board of Inspectors for steam vessels and steam boilers, and to provide for licensing engineers of steam engines.....	124
<b>BONDS.</b>	
CHAPTER 28—An act to provide for borrowing money to defray the extraordinary expenditures of the State government.....	129
CHAPTER 29—An act providing for refunding the outstanding bonds of the State of North Dakota.....	131

CHAPTER 30—An act authorizing counties to fund outstanding indebtedness, and adjust disputed claims; to issue and dispose of bonds, and to provide for the payment of the principal and interest thereof,	133
CHAPTER 31—An act amending Chapter 42 of the General Laws of the Eighteenth Session of the Legislative Assembly of the Territory of Dakota, entitled “An act authorizing and empowering organized counties of Dakota to erect county buildings for court houses and jail purposes, and to issue and dispose of bonds to provide funds to pay therefor, and to provide for the payment of principal and interest of such bonds”.....	135
CHAPTER 32—An act to require the Secretary of State to keep a record of bonds of the State officers and to regulate the depository of the bonds of all the State officers of the State of North Dakota.....	136
CHAPTER 33—An act making invalid bonds or other evidences of debt of counties and bonds of townships and other political corporations, unless the same have endorsed thereon a certificate showing legality of issue, and designating the proper officer for making such certificate.....	137

## BOUNTIES.

CHAPTER 34—An act to encourage the manufacture of binding twine in the State of North Dakota.....	138
CHAPTER 35—An act to encourage the culture of sugar beet in this State and the manufacture of sugar from the same.....	139
CHAPTER 36—An act to encourage the manufacture of potato starch in the State of North Dakota.....	140

## BRANDS AND EARMARKS.

CHAPTER 37—An act entitled “An act relating to the use of brands and earmarks on domestic animals and live stock, and repealing Chapter 61 of the Session Laws of 1881”.....	141
--	-----

## BRIDGES.

CHAPTER 38—An act entitled “An act authorizing counties to build all bridges within the county limits, wherein the cost of the construction of same exceeds the sum of one hundred dollars”.....	144
CHAPTER 39—An act relating to bridge tax in certain cities or municipalities.....	145

## CHATTEL MORTGAGES.

CHAPTER 40—An act to amend an act entitled “An act to give publicity to chattel mortgage sales,” approved March 8, 1889.....	146
CHAPTER 41—An act to amend Section 1, Chapter 25, of the General Laws of 1881, being Section 4383 of the Compiled Laws.....	147

## CIVIL TOWNSHIPS.

CHAPTER 42—An act to amend Sections 16 and 18 of Subchapter 2 of Chapter 112 of the General Laws of 1883, of the Territory of Dakota, entitled “An act to provide for the organization of civil townships and the government of the same”.....	148
CHAPTER 43—An act to allow organized townships to raise a tax for irrigation purposes.....	149
CHAPTER 44—An act providing for the collection of assets and payment of liabilities of civil townships heretofore illegally organized.....	150

CHAPTER 45—An act to repeal Chapter 144 of the Session Laws of 1885, entitled “ An act allowing town supervisors to issue bonds” .....	151
COMMISSIONER OF AGRICULTURE AND LABOR.	
CHAPTER 46—An act defining the duties of the Commissioner of Agriculture and Labor, and providing that until otherwise provided by law, he shall be ex-officio State Dairy Commissioner. ....	151
CHAPTER 47—An act fixing the salary of the Commissioner of Agriculture and Labor.....	155
COUNTY COMMISSIONERS.	
CHAPTER 48—An act to enable counties to regulate the number of county commissioners.....	155
CORPORATION HEADQUARTERS.	
CHAPTER 49—An act authorizing a private corporation to change the place where its principal business is to be transacted.....	157
COUNTY COURTS.	
CHAPTER 50—An act to fix the compensation of the judges of the county courts and provide a fund to reimburse the county for the same..	158
CHAPTER 51—An act to provide for submitting the question of conferring additional jurisdiction upon county courts.....	160
CHAPTER 52—An act fixing the terms of court and defining the practice in county courts having civil and criminal jurisdiction.....	161
CHAPTER 53—An act to amend Sections 171, 172 and 173 of the Probate Code.....	165
CHAPTER 54—An act granting power to county courts to direct the mortgaging of real estate belonging to the estate of deceased persons and the estate of minors and incompetent persons.....	166
COUNTY OFFICERS	
CHAPTER 55—An act to provide for fixing the salaries of county officers.....	167
COUNTY SEATS.	
CHAPTER 56—An act to provide for the changing and relocating of county seats.....	168
COURT RECORDS.	
CHAPTER 57—An act to provide for the clerks of court to transcribe and deliver all papers and records pertaining in any manner to any civil and criminal action now pending in any county to the clerk of the court of the county in which such action or actions properly belong	169
DENTAL SURGERY.	
CHAPTER 58—An act to revise and amend an act entitled “ An act to insure the better education of practitioners of dental surgery, and to regulate the practice of dentistry in the Territory of Dakota”!.....	170
DEPUTIES.	
CHAPTER 59—An act to amend Section 1, Chapter 6, of the Revised Code of 1877, being Section 1397 of the Compiled Laws.....	174

CHAPTER 60—An act granting certain powers to county commissioners 175

DISTRICT COURTS.

CHAPTER 61—An act to provide for the interchanging of district judges and for holding court when the judge thereof is for any reason unable to act ..... 176

EDUCATION.

CHAPTER 62—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..... 177

CHAPTER 63—An act to define the powers and duties of the State Superintendent of Public Instruction..... 229

CHAPTER 64—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..... 230

CHAPTER 65—An act providing for the election of boards of education in cities not organized under the General Law..... 238

ESTRAYS.

CHAPTER 66—An act providing for the retention and disposal of estrays 239

CHAPTER 67—An act restraining certain male animals from running at large ..... 243

FLAGS.

CHAPTER 68—An act to authorize school boards to purchase United States flags ..... 244

CHAPTER 69—An act providing for the displaying the flag of the United States on all public State institutions ..... 244

FORESTRY.

CHAPTER 70—An act entitled “An act to promote forest tree culture” 245

GRAND JURIES.

CHAPTER 71—An act entitled “An act to provide for the prosecution and trial of crimes and offenses on information and to dispense with the calling of grand jurors, except by order of the district court judges” ..... 246

INCORPORATION.

CHAPTER 72—An act entitled “An act to provide for the incorporation of certain classes of benevolent and charitable institutions,” ..... 249

INSURANCE.

CHAPTER 73—An act entitled “An act defining the duties of the Commissioner of Insurance,” ..... 251

CHAPTER 74—An act to provide for a uniform policy of fire insurance to be made and issued in this State by all insurance companies taking fire risks on property within this State..... 253

CHAPTER 75—An act entitled “An act authorizing and requiring the Commissioner of Insurance of the State of North Dakota to revoke the authority granted any insurance company to do business within the State of North Dakota, on the failure of such company so authorized to transact business, to satisfy any execution on any judgment against it,” .....	255
CHAPTER 76—An act entitled “An act to regulate the writing of insurance of whatsoever kind in this State,” .....	257
CHAPTER 77—An act to amend Chapter 67 of the General Laws of 1887 relating to county mutual insurance companies.....	258
CHAPTER 78—An act to amend Section 16 of Chapter 69 of the General Laws of 1885, and Section 10 of Chapter 69 of the General Laws of 1889 relating to the publication of insurance statements...	259

## JOINT COMMISSION.

CHAPTER 79—An act to provide for a Commission to act with a like Commission from the State of South Dakota to effect the final adjustment between the respective States of North and South Dakota, and defining its duties and powers.....	261
CHAPTER 80—An act providing for the appointment of a Commissioner on the part of North Dakota to supervise the surveying, ascertaining and distinctly marking the boundary line between the States of North Dakota and South Dakota .....	262

## JUDICIAL DISTRICTS.

CHAPTER 81—An act defining the boundaries of the First Judicial District, subdividing the same and fixing the terms of court to be held therein .....	263
CHAPTER 82—An act to subdivide the sixth judicial district of the State of North Dakota, and to fix the terms of court therein.....	264

## JUDGMENT AND DECREES.

CHAPTER 83—An act authorizing transcripts of judgments and decrees of the United States courts in the State of North Dakota to be filed with the clerks of the district courts of the several counties and to be docketed therein.....	266
CHAPTER 84—An act to provide for the effect of judgment in an action of foreclosure of liens upon real property .....	267

## JURORS.

CHAPTER 85—An act relating to the selection of jurors.....	267
--	-----

## LEGISLATIVE EMPLOYES.

CHAPTER 86—An act to fix the number of officers and employes of the Legislative Assembly of the State of North Dakota, and to provide for the compensation and payment of the same.....	268
---	-----

## LIENS.

CHAPTER 87—An act to amend Section 2 of Chapter 88 of Session Laws of 1889.....	272
CHAPTER 88—An act providing for a lien upon threshing engines or separators for repairing the same.....	272

## LIVE STOCK.

- CHAPTER 89—An act making it lawful for certain kinds of stock to run at large during a portion of each year, and for prohibiting stallions and vicious stock from running at large and providing penalties, and for submitting this act to a vote..... 274

## MARSHALS OF SUPREME COURT.

- CHAPTER 90—An act providing for the appointment of marshals of the Supreme Court of the State, defining his duties and fixing his compensation ..... 275

## MARRIAGE LICENSES.

- CHAPTER 91—An act relating to marriage and providing licenses..... 276

## MEDICAL SCIENCE.

- CHAPTER 92.—An act to promote medical science..... 279
- CHAPTER 93—An act to regulate the practice of medicine in the State of North Dakota, to license physicians, surgeons and obstetricians and to punish persons violating the provisions of this act ..... 280

## MILITIA.

- CHAPTER 94—An act to reduce the expenses of the State by suspending Sections 7 and 14 of Chapter 113, Laws of 1885, and Sections 20, 37 and 69 of Chapter 100, Laws of 1887, relating to the militia, and to make appropriations for armory rent of companies, and for Adjutant General's salary and expenses..... 283

## MUNICIPALITIES.

- CHAPTER 95—An act entitled "An act to amend Article 15, Sections 1 and 15, Chapter 73, Laws of 1887."..... 284
- CHAPTER 96—An act entitled "An act relating to local improvements in cities not organized and incorporated under the General Law for the incorporation of cities." ..... 285
- CHAPTER 97—An act amending Section 1 of Chapter 16 of the acts of the Seventeenth Session of the Legislative Assembly of the Territory of Dakota, entitled "An act to provide for the issuance of bonds by cities and municipal corporations in the Territory of Dakota for school and other purposes." ..... 286
- CHAPTER 98—An act to amend Section 4, Chapter 139, of the General Laws of 1887, entitled "An act to authorize cities and towns and villages to levy and collect taxes for municipal purposes."..... 286
- CHAPTER 99—An act to empower cities and villages to acquire real estate by gift or devise for parks and public grounds, and protection of such real estate..... 287
- CHAPTER 100—An act amending Articles 4, 9 and 16, of Chapter 73 of the General Laws of 1887, entitled "An act to provide for the incorporation of cities." ..... 288

## NOTARIES PUBLIC.

- CHAPTER 101—An act to amend Sections 1 and 2, Chapter 45, General Laws of 1879, and Sections 2 and 3, Chapter 17 of the Political Code governing the appointment of notaries public, extending the appointive power of the Governor to unorganized counties..... 290



<b>NOXIOUS WEEDS.</b>	
CHAPTER 102—An act to amend Section 1 General Laws 1885, supplement, relating to noxious weeds.....	292
<b>OBSCENE LITERATURE.</b>	
CHAPTER 103—An act to suppress in this State the selling, lending giving away, or showing to any minor child, any paper or publication principally devoted to illustrating or describing immoral deeds.....	293
CHAPTER 104—An act authorizing the exclusion of certain persons from the trial of causes of a scandalous or obscene nature.....	294
<b>OFFICIAL OATHS.</b>	
CHAPTER 105—An act to amend Sections 3 and 4 of the Political Code, being Section 1372 of the Compiled Laws, providing the oath of civil officers.....	295
CHAPTER 106—An act authorizing the judges of the district court to administer oaths.....	296
<b>OIL INSPECTION.</b>	
CHAPTER 107—An act to provide for the inspection of illuminating oils manufactured from petroleum or coal oils.....	296
<b>PHARMACY.</b>	
CHAPTER 108—An act to regulate the practice of pharmacy, the licensing of persons to carry on such practice, and the sale of poisons in the State of North Dakota.....	302
<b>PRESIDENTIAL ELECTORS.</b>	
CHAPTER 109—An act relating to electors of President and Vice President.....	308
<b>PROHIBITION.</b>	
CHAPTER 110—An act to prescribe penalties for the unlawful manufacture, sale and keeping for sale intoxicating liquors, and to regulate the sale, barter and giving away of such liquors for medical, scientific and mechanical purposes.....	309
<b>PROTECTION OF MECHANICS.</b>	
CHAPTER 111—An act to protect mechanics, laborers and persons furnishing material for the construction of public buildings and making public improvements.....	329
<b>PROXIES.</b>	
CHAPTER 112—An act regulating the use of proxies in State, district and county conventions.....	330
<b>PUBLIC CREDIT.</b>	
CHAPTER 113—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".....	330

---

CHAPTER 114—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,” approved January 10, 1890.....	331
CHAPTER 115—An act proposing an amendment to Section 182 of Article 12 of the Constitution of the State of North Dakota.....	332

PUBLIC EXAMINER.

CHAPTER 116—An act relating to the duties of the Public Examiner...	333
---	-----

PUBLIC OFFICERS.

CHAPTER 117—An act relating to State, county and city officers, to restrain them from speculating in their offices.....	334
CHAPTER 118—An act fixing the penalty for willful neglect of officers to make report required by law and prescribing the duties of the Attorney General in relation thereto.....	335

PUBLIC PRINTING.

CHAPTER 119—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.....	336
CHAPTER 120—An act to define what newspapers are entitled to publish legal notices and do public printing.....	346
CHAPTER 121—An act to provide for the purchase of stationers' supplies for the use of the Legislative Assembly and the various State officers and making an appropriation therefor.....	347

RAILROADS.

CHAPTER 122 — An act entitled “ An act to regulate common carriers and defining the duties of the Commissioners of Railroads in relation thereto, in the State of North Dakota”.....	349
CHAPTER 123—An act to facilitate the shipment of live stock, grain and other commodities.....	365
CHAPTER 124—An act relating to the shipment of live stock and grain	366
CHAPTER 125—An act to fix the maximum rates that railroad companies may charge for the transportation of coal mined within the State of North Dakota.....	367
CHAPTER 126—An act entitled “An act to provide for the transfer of freight at railroad crossings and the maintenance of depots at the same”.....	368
CHAPTER 127—An act requiring railway companies to build and keep in repair highway crossings.....	371
CHAPTER 128—An act compelling railroad companies to put in sidetracks adjacent to coal mines in the State of North Dakota.....	372
CHAPTER 129—An act authorizing railroad companies to take, acquire, purchase, sell or guarantee the payment of the bonds and other securities of any other railroad company.....	374
CHAPTER 130—An act to require all railroad corporations doing business in the State of North Dakota to file with the county clerk of any county in which any railroad or part thereof may be located, a map showing all railroad and right of way owned by said corporations.....	374

---

 REPORTS.

CHAPTER 131—An act to amend Chapter 48 of the Session Laws of 1889, entitled “An act to amend Section 103 of Chapter 28 of the Political Code,” relating to publication of receipts and disbursements of county treasurers.....	375
---	-----

## REVENUE AND TAXATION.

CHAPTER 132—An act entitled “An act prescribing the mode of making assessment, and the levy and collection of taxes, and for other purposes relative thereto”.....	376
CHAPTER 133—An act to amend Section 29 and Section 70 of an act entitled “An act prescribing the mode of making assessments and the levy and collection of taxes and for other purposes relative thereto,” approved March 12, 1890....	415
CHAPTER 134—An act to amend an act of the Legislative Assembly of the Territory of Dakota, approved March 7, 1889, entitled “An act providing for the levy and collection of taxes upon the property of railroad companies in this Territory”.....	417
CHAPTER 135—An act to provide for the assessment of railroad property in this State and prescribing the manner of levying and collecting the tax on the same.....	420
CHAPTER 136—An act to license express companies .....	421
CHAPTER 137—An act providing for the payment of a license on railway sleeping cars .....	423
CHAPTER 138—An act to provide for the licensing of public warehouses .....	425
CHAPTER 139—An act requiring the payment of fees into the State Treasury by corporations, upon filing articles of incorporation, or upon increase of capital stock .....	426
CHAPTER 140—An act to provide for taxation of real and personal property situated in unorganized counties.....	427
CHAPTER 141—An act entitled “An act to provide for the assessment and taxation of itinerant, transient and bankrupt stock merchants, and providing for the collection of such tax” .....	429
CHAPTER 142—An act to license peddling and prescribing penalties for the violation thereof.....	430
CHAPTER 143—An act authorizing the levy and collection of taxes in cities and towns and villages which have failed or refused to elect boards of trustees, aldermen or council....	432
CHAPTER 144—An act authorizing the counties in the State of North Dakota to raise and expend a fund for the destruction of gophers...	432
CHAPTER 145—An act providing for extension of the time for the payment of taxes for the year 1889.....	433

## SCHOOL LANDS.

CHAPTER 146—An act to provide for the leasing and sale of the common school lands of North Dakota .....	434
CHAPTER 147—An act to amend Section 14 of an act entitled “An act to provide for the leasing and sale of the common school lands of North Dakota,” Approved January 10, 1890 .....	440
CHAPTER 148—An act to prevent the trespassing upon school and public lands, and to recover damages therefor.....	441

## SEALS.

- CHAPTER 149—An act prescribing the Great Seal of the State of North Dakota and the official seal of all courts and officers of the State who are authorized to use a seal ..... 443

## SEED GRAIN.

- CHAPTER 150—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" ..... 444
- CHAPTER 151—An act entitled "An act to amend 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,' " Approved February 13, 1890..... 447
- CHAPTER 152—An act authorizing counties to issue bonds to procure seed grain for needy farmers resident therein..... 449
- CHAPTER 153—An act entitled "An act to amend an act entitled 'An act authorizing counties to issue bonds to procure seed grain for needy farmers resident therein,' " Approved February 14, 1890..... 455
- CHAPTER 154—An act to amend an act entitled "An act authorizing counties to issue bonds to procure seed grain for needy farmers resident therein," Approved February 14, 1890..... 456

## SHEEP HUSBANDRY.

- CHAPTER 155—An act entitled "An act indemnifying the owners of sheep in case of damage by dogs, and creating a fund to pay for the same by a tax on dogs"..... 457
- CHAPTER 156—An act to amend Sections 1, 2, 3 and 4, of Chapter 135 of the General Laws of 1885, entitled "An act to provide for the appointment of sheep inspectors and to provide for the supervision of sheep in case of infection"..... 460
- CHAPTER 157—An act to amend Sections 1, 2 and 3 of Chapter 63 of the General Laws of 1881, relating to sheep husbandry..... 462

## STATE INSTITUTIONS.

- CHAPTER 158—An act to locate, establish and maintain the North Dakota Academy of Science and to provide for the government thereof..... 463
- CHAPTER 159—An act to amend an act passed at the first session of the Legislative Assembly, entitled "An act for an act to locate, establish and maintain the North Dakota Academy of Science and to provide for the government thereof," approved March 14, 1890..... 467
- CHAPTER 160—An act to provide for the establishment, erection and operation of the North Dakota Agricultural College and Agricultural Experiment Station at Fargo..... 468
- CHAPTER 161—An act to create an institute for the education of the deaf and dumb of North Dakota, and providing for its support and management..... 472
- CHAPTER 162—An act entitled "An act to provide for the erection and operation of a State Normal School at Mayville, Traill county, North Dakota..... 476
- CHAPTER 163—An act to locate and provide for the government of a State Normal School at Valley City, Barnes county, North Dakota, 480

CHAPTER 164—An act to locate and provide for the government of a State Reform School at Mandan, Morton county, North Dakota...	483
CHAPTER 165—An act for the establishment, government and maintenance of a Soldiers' Home.....	488
STATE LIBRARY.	
CHAPTER 166—An act to provide for the purchase of books for the State Library and for the care and custody of the same.....	492
SUPPORT OF MARRIED WOMEN.	
CHAPTER 167—An act to provide for the support of married women...	493
CHAPTER 168—An act relating to the punishment of a father for the abandonment of his children and of husband for the abandonment of his wife.....	494
SUPREME COURT.	
CHAPTER 169—An act fixing the times and places of holding general and special terms of the Supreme Court of the State of North Dakota, and providing for the expenses incident thereto .....	495
CHAPTER 170—An act defining the duties and prescribing the fees and fixing the salary of the clerk of the Supreme Court.....	496
CHAPTER 171—An act regulating the duties and compensation of the Supreme Court reporter and to repeal Sections 2, 3, 4, 5 and 6 of Chapter 56 of the Session Laws of Dakota Territory of the year 1879 .....	498
CHAPTER 172—An act providing for the purchase and distribution of the remaining Reports of the Supreme Court of Dakota Territory..	500
TRUSTS, POOLS AND COMBINATIONS.	
CHAPTER 173—An act to prohibit grain dealers, partnerships, companies, corporations or associations from combining or entering into any agreement or contract to pool or fix the price to be paid for grain, hogs, cattle, or stock of any kind whatever, and to provide punishment for violations of the same.....	501
CHAPTER 174—An act for the punishment of pools, trusts and conspiracies, and as to evidence in such cases.....	503
UNEXPENDED BALANCES.	
CHAPTER 175—An act to amend Section 1, Chapter 51, of the Session Laws of 1889, entitled "An act to authorize the board of county commissioners of any county to transfer unexpended balances in the county treasury from the funding bond fund, road and bridge fund or penalty and interest fund to the general fund".....	506
CHAPTER 176—An act to transfer the unexpended balances of the bond funds of certain State institutions to the general fund.....	506
CHAPTER 177—An act to transfer and appropriate the unexpended balances of the appropriation made for the office of Commissioner of Immigration by the Sixteenth and Eighteenth Legislative Assemblies of the Territory of Dakota.....	507
CHAPTER 178—An act to transfer and reappropriate unexpended balances of the appropriations made by the Eighteenth Legislative Assembly of the Territory of Dakota.....	508

UNIVERSITY.

CHAPTER 179—An act to provide the University of the State of North Dakota with the General and Special Laws and the Reports of the Decisions of the Supreme Court for library purposes..... 509

CHAPTER 180—An act to amend Section 9 of Chapter 40 of the General Laws of 1883, entitled "University of North Dakota"..... 510

CHAPTER 181—An act authorizing the Adjutant General to loan to the Trustees of the University of North Dakota one hundred muskets for use of students therein..... 510

UNIFORM ACCOUNTS.

CHAPTER 182—An act to establish a uniform system of accounting for public funds in the State educational, charitable and correctional institutions, and to appropriate miscellaneous receipts for the said institutions ..... 511

CHAPTER 183—An act to provide for a system of accounts for the State Auditor and State Treasurer..... 515

USURY.

CHAPTER 184—An act defining usury and the penalty for taking the same ..... 518

VETERINARY SURGEON.

CHAPTER 185—An act to prevent the spread of contagious and infectious diseases among domestic animals..... 521

CHAPTER 186—An act to repeal Chapter 32 of the Session Laws of 1887, entitled "An act to suppress and prevent the spread of contagious and infectious diseases among domestic animals"..... 524

WAREHOUSES.

CHAPTER 187—An act entitled "An act to regulate the buying, selling and handling of grain of all kinds, and to regulate the grading of the same and to provide for the manner in which grain may be received for storage, and the conditions on which the same may be returned to the owner, and to regulate matters connected with the business of warehousing and grain dealing" ..... 525

CHAPTER 188—An act to regulate warehouses, inspection, weighing and handling of grain ..... 529

CHAPTER 189—An act providing for the erection of public grain warehouses and elevators on the right of way of railroad corporations and contiguous thereto, and prescribing condemnation proceedings in connection therewith ..... 540

CHAPTER 190—An act to amend Section 4, Chapter 130, Laws of 1887 of the Political Code, entitled "Grain warehouses," defining the term of "public warehouses," and requiring additional duties..... 543

MISCELLANEOUS.

CHAPTER 191—An act to cede jurisdiction to the United States over certain lands and for the purchase and condemnation thereof..... 543

CHAPTER 192—An act requiring the Secretary of State to give bond... 544

CHAPTER 193—An act to define the liability of the officers, agents and stockholders of corporations not organized under the laws of this State, and wrongfully doing business therein..... 545

CHAPTER 194—An act to regulate the paying of fees to witnesses when called in more than one case by the same party .....	545
CHAPTER 195—An act entitled “An act to prevent the sale of cigarettes or tobacco to certain minor children” .....	546
CHAPTER 196—An act fixing the time for the commencement and ending of the fiscal year for the State of North Dakota .....	546
CHAPTER 197—An act to legalize the acts of certain officers therein named .....	547
CHAPTER 198—An act to legalize certain instruments and the record thereof .....	547
CHAPTER 199—An act designating a place of deposit for all abstracts and conveyances of title to the State of North Dakota, of lands now owned or hereafter acquired by the State.....	548
CHAPTER 200—An act repealing an act entitled “An act to prohibit the destruction of beaver in the Territory of Dakota”.....	548
CHAPTER 201—An act providing for the attaching of certain townships to Ramsey county.....	549

#### JOINT RESOLUTIONS AND MEMORIALS.

NUMBER 1—A memorial to Congress requesting the passage of the two pension bills proposed by the G. A. R. National Pension Committee.	551
NUMBER 2—A concurrent resolution for a memorial to Congress for the appropriation of 5 per centum of the amounts of the sales of public lands, situated within the limits of the State of North Dakota and which were sold by the United States prior to the admission of the State of North Dakota into the Union, to be used as a permanent fund for the support of the common schools of this State.....	552
NUMBER 3—A 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 for an appropriation for the purpose of dredging and dyking Devils Lake.....	553

## AUTHENTICATION.

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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 first session thereof, begun and held at Bismarck, November 19, 1889, 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 31st day of May, A. D. 1890.

JOHN FLITTIE,  
*Secretary of State.*



# THE LAWS.

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## APPORTIONMENT.

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### CHAPTER 1.

[H. F. 5.]

#### ATTACHING CERTAIN TOWNSHIPS TO THIRD LEGISLATIVE DISTRICT.

AN ACT to Attach Certain Townships to the Third Legislative District.

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

§ 1. BOUNDARIES.] Townships one hundred fifty-five (155), one hundred fifty-six (156), one hundred fifty-seven (157) and one hundred fifty-eight (158), of range fifty-nine (59), in Walsh county, North Dakota, are hereby attached to and made a part of the Third Legislative district, and said Third Legislative district shall until otherwise provided by law be comprised of the following townships, viz.: Perth, Latonia, Adams, Silvesta, Cleveland, Norton, Vesta, Tiber, Medford, Vernon, Golden, Lampton, Eden, Rushford, Kensington, Dundee, Ops, Prairie Center, Fertile, Park River, Glenwood, and townships 155, 156, 157 and 158 of range 59 in the county of Walsh, and shall be entitled to one senator and two representatives.

Approved March 3, 1890.

# APPROPRIATIONS.

## CHAPTER 2.

[S. F. 145.]

### FOR MAINTENANCE OF INSANE HOSPITAL AT JAMESTOWN.

AN ACT Providing for an Appropriation for the Maintenance of the Hospital for the Insane at Jamestown.

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

§ 1. APPROPRIATION.] That there is hereby appropriated the sum of \$68,676, 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 year beginning March 1, 1890, to-wit:

For maintenance.....	\$25,000
For employes' wages .....	16,608
For fuel and lights.....	10,000
For incidental expenses .....	800
For drugs and medicines .....	1,000
For repair fund.....	1,000
For return of patients and burial of dead.....	800
For plumbing .....	300
For water supply .....	700
For beds and bedding.....	600
For furniture .....	500
For stock .....	200
For covering steam pipes.....	1,500
For sewer pipes .....	100
For finishing boiler house .....	1,000
For supplies for engine room.....	500
For radiators.....	300
For finishing attics and basements.....	6,000
For paints and painting .....	1,000
For repairs made to roof from damage by storm .....	768
Total.....	\$68,676

No part of the appropriation made in this act for fuel shall be expended for coal other than that taken from mines within the

State; *Provided*, The same costs the State not more than three dollars and twenty-five cents (\$3.25) per ton delivered at the hospital. A violation of the provisions of this section by any officer of this State shall work a forfeiture of his office.

§ 2. EMERGENCY.] An emergency exists in this, that there has been no provision made for the maintenance of the State Hospital for the Insane at Jamestown; therefore this act shall take effect from and after its passage and approval.

Approved March 31, 1890.

CHAPTER 3.

[S. F. 155.]

FOR MAINTENANCE 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. APPROPRIATION.] 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 State Penitentiary at Bismarck and for the purpose of making needed permanent improvements thereat:

Warden's salary.....	\$1,500
Deputy warden's salary.....	1,000
Assistant gate keeper and clerk .....	600
Teacher and librarian .....	600
Officers, guards and employes.....	3,200
Maintenance .....	7,500
Fuel and lights.....	2,500
Repairs, improvements, etc.....	1,000
Incidentals, etc.....	1,000
Physician and medicine .....	500
Transportation, clothing and aid to discharged convicts.	500
Clothing and bedding etc.....	700
Books, stationery, fixtures, etc., for the school.....	300
<b>Total .....</b>	<b>\$20,900</b>

PERMANENT IMPROVEMENTS.

Improving the water system .....

\$3,500

§ 2. EMERGENCY.] An emergency exists in this, that there has been no provision made for the maintenance of the State Peni-

tentiary; therefore, this act shall take effect from and after its passage and approval.

Approved March 31, 1890.

## CHAPTER 4.

[S. F. 168.]

### FOR MAINTENANCE OF UNIVERSITY AT GRAND FORKS.

AN ACT Making an Appropriation for the State University and to fix the Salaries of the President and Professors of the Same.

*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 twenty-three thousand four hundred (23,400) dollars or so much thereof as may be necessary for the purpose of maintaining the State University for the fiscal year ending March 1, 1891.

The salaries of president and instructional force shall be \$16,000 and the the salary of the president of the university shall be \$2,500 per annum.

Apparatus, five hundred (500) dollars;  
 Chemicals for laboratory, five hundred (500) dollars;  
 Engineer and janitors, fifteen hundred (1,500) dollars;  
 Fuel, fifteen hundred (1,500) dollars;  
 Incidentals, five hundred (500) dollars;  
 Repairs, seven hundred (700) dollars;  
 Library and reading room, three hundred (300) dollars;  
 Hospital, four hundred (400) dollars;  
 Secretary, three hundred (300) dollars;  
 Water supply, eight hundred (800) dollars,

For material and labor for fitting new laboratory building for use of gas, four hundred (400) dollars.

All coal purchased to be used for fuel at the State University at Grand Forks shall be native coal taken from mines within the State; *Provided*, Such coal can be purchased for the State delivered at the university at a price not to exceed three dollars and twenty-five cents (\$3.25) per ton; *Provided, further*, That this section shall not be construed as prohibiting the use of wood for fuel at the university. A violation of the provisions of this section by any officer of this State shall work a forfeiture of his office.

§ 2. The State Auditor is hereby authorized and directed to draw his warrants on the premium realized from the sale of bonds

heretofore sold for the use of said university, the proceeds of which were appropriated for said university to reimburse the banks of Grand Forks for money loaned to said university to repair damages by the storm of June 16, 1887, in all not exceeding seven hundred and seventy-five (775) dollars.

§ 3. DEFICIENCY.] There is also appropriated for the furnishing and heating the dormitory, the sum of \$2,765.27 to be used in paying obligations heretofore incurred by the board of trustees for that purpose.

§ 4. EMERGENCY.] Whereas, an emergency exists, in this, that no provision has been made for the maintenance of the State University for the ensuing fiscal year; therefore, this act shall take effect immediately after its passage and approval.

Approved April 1, 1890.

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## CHAPTER 5.

[H. F. 4.]

### MILEAGE AND PER DIEM AND SALARIES OF MEMBERS AND EMPLOYEES OF LEGISLATURE.

AN ACT for the Appropriation of Monies for the Payment of Mileage, Per Diem and Salaries of Members and Employes of the First 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 monies in the State Treasury, not otherwise appropriated, the sum of \$40,000 or so much thereof as may be necessary, to pay mileage and per diem of members and 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 immediately after its passage and approval.

Approved December 10, 1890.

## CHAPTER 6.

[S. F. 177.]

## FOR PER DIEM OF LEGISLATURE.

AN ACT to Appropriate Money to Pay the Per Diem of Members, Officers and Employes of the Legislative Assembly.

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

§ 1. APPROPRIATION.] That there is hereby appropriated out of the general fund of the State not otherwise appropriated, the sum of \$60,000, or so much thereof as may be necessary, for the purpose of paying the per diem of the members, officers and employes of the Legislative Assembly.

§ 2. EMERGENCY.] Whereas, an emergency exists in this, that no adequate appropriation has been made to pay the per diem of members, officers and employes of the Legislative Assembly; therefore this act shall take effect immediately after its passage and approval.

Approved February 20, 1890.

## CHAPTER 7.

[S. F. 223.]

## FOR SALARIES OF STATE OFFICERS.

AN ACT Making an Appropriation for the Payment of the Salaries of the Various State Officers for the Fourteen Months Ending December 31, 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 State Treasury not otherwise appropriated, the sum of \$66,000, or so much thereof as may be necessary, for the payment of the salaries of the various officers of this State for fourteen months ending December 31, 1890.

§ 2. 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, an emergency exists; therefore, this act shall take effect and be in force immediately after its passage and approval.

Approved March 18, 1890.

## CHAPTER 8.

[S. F. 108.]

## FOR FURNITURE AND OFFICE SUPPLIES FOR STATE OFFICERS.

AN ACT Authorizing the Governor, Treasurer and Secretary of State to Provide Furniture and Supplies for the Various State Offices, and Making an Appropriation Therefor.

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

§ 1. STATIONERS' SUPPLIES.] The Governor Treasurer and Secretary of State are hereby authorized and empowered to provide all necessary furniture, stationery, postage and other office supplies for the office of Governor, Secretary of State, Auditor, Treasurer, Attorney General, Commissioner of Insurance, Commissioner of Agriculture and Labor, Railroad Commissioners and Superintendent of Public Instruction.

§ 2. APPROPRIATION.] There is hereby appropriated out of any money in the State Treasury not otherwise appropriated, a sufficient sum per annum to carry out the provisions of this act; *Provided*, That no warrant upon the Treasurer for such furniture and supplies shall be drawn by the Auditor until an itemized statement of the things so furnished shall be filed with the Auditor.

§ 3. EMERGENCY.] There being an emergency existing by reason of the fact that there is no provision of law providing furniture and office supplies for the various State officials, this act shall take effect and be in force immediately upon its passage and approval.

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

Approved March 3, 1890.

## CHAPTER 9.

[S. F. 28.]

## FOR CLERK HIRE FOR STATE OFFICES.

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

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

§ 1. SALARIES.] 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 November 4, 1889, to-wit:

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

Secretary's office, \$3,000 per annum.

Treasurer's office, \$2,000 per annum.

Auditor's office, \$2,000 per annum.

Attorney General, \$900 per annum.

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

Commissioner of Insurance, \$2,000 per annum.

Commissioner of Agriculture [and Labor,] \$1,500 per annum.

*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. EMERGENCY.] There being an emergency existing by reason of there being no provision by law for the payment of any clerk hire for the several State offices, this act shall take effect and be in force immediately upon its passage and approval.

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

Approved December 19, 1889.



## CHAPTER 10.

[H. F. 131.]

## AMENDMENT.

AN ACT Entitled "An Act to Amend Section 1 of an Act Entitled 'An Act Providing Clerk Hire for the Various Officers and Making Appropriations Therefor,'" Approved December 19, 1889,

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

§ 1. CLERK HIRE FOR COMMISSIONERS OF RAILROADS.] That Section 1 of an act entitled "An act providing clerk hire for the various officers, and making appropriations therefor," approved December 19, 1889, be and the same is hereby amended by adding thereto the words "Commissioners of Railroads, one thousand (1,000) dollars per annum."

Approved March 19, 1890.

## CHAPTER 11.

[H. F. 290.]

## FOR STATIONERY FOR LEGISLATURE.

AN ACT Making an Appropriation for the Payment of the Stationery and Supplies Purchased for the Legislative Assembly.

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

§ 1. APPROPRIATION.] The sum of six hundred (600) dollars or so much thereof as may be necessary is hereby appropriated out of any moneys in the State Treasury not otherwise appropriated, to pay for the stationery and supplies purchased for the first session of the Legislative Assembly.

§ 2. EMERGENCY.] There being an emergency existing by virtue of there being no provision for the payment of said stationery; therefore, this act shall take effect and be in force immediately upon its passage and approval.

Approved March 6, 1890.

## CHAPTER 12.

[S. F. 191.]

## FOR 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. AUDITOR TO ALLOW CLAIMS—APPROPRIATION.] That the State Auditor be and is hereby authorized and empowered to hear and determine any accounts or claims for services or supplies furnished prior to the next session of the Legislative Assembly 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 he is also empowered to draw his warrants for such sums as he shall deem to be due on such accounts or claims, upon approval thereof by the Governor, not exceeding in the aggregate \$7,000; and the State Treasurer is hereby directed to pay such warrants from the general funds of the State.

§ 2. DEFICIENCY.] The sum of \$3,000, or so much thereof as may be necessary, is appropriated to pay the deficiency incurred in maintaining the public offices of the State during the fiscal year ending March 1, 1890; and the State Treasurer is hereby directed to pay such warrants from the general funds of the State.

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

Approved March 19, 1890.

## CHAPTER 13.

[S. F. 194.]

## TO PAY MILITIA DEFICIENCY.

AN ACT Entitled "An Act to appropriate Money to Pay Amounts Due the Militia of the Territory of Dakota."

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

§ 1. APPROPRIATION.] That the sum of \$5,000, or so much thereof as may be necessary, be and the same is hereby appropriated out of any funds in the Treasury of the State, not otherwise appropriated, to pay accounts now outstanding against the Territory of Dakota, which have been incurred under and by virtue of chapter one hundred (100) of the session laws of 1887, by those organizations and officers, enrolled in its militia, within the limits of the present State of North Dakota.

§ 2. DUTIES OF AUDITOR AND TREASURER.] The Auditor of this State shall draw his warrant on the State Treasurer in favor of all organized commands and officers of the North Dakota National Guard, who present properly executed vouchers, which have been duly approved by the proper officers whose lawful duty it was to approve accounts against the militia fund of the Territory of Dakota, and which vouchers have never been paid and have been marked "not paid for want of funds," and the Treasurer of this State shall pay the same in conformity with Section 1 of this act.

§ 3. EMERGENCY.] The absence, in the present laws of the State of North Dakota, of speedy and adequate remedies for the payment of the outstanding indebtedness specified in the foregoing sections of this act, creates an emergency, which calls for the immediate taking effect of the same; therefore, the same shall take effect and be in force from and after its passage and approval.

Approved March 20, 1890.

## CHAPTER 14.

[S. F. 144.]

## FOR CONSTITUTIONAL CONVENTION DEFICIENCY.

AN ACT to Provide for the Issuing of Warrants for the Payment of the Expenses of the Constitutional Convention in Excess of the Amount Appropriated by Congress Therefor, and to Provide for the Redemption of said Warrants.

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

§ 1. AUDITOR TO AUDIT VOUCHERS.] It shall be the duty of the State Auditor to audit the vouchers issued by the proper officers of the Constitutional Convention of the State of North Dakota, for expenses incurred by said convention in excess of the sum appropriated therefor by Congress, and to issue warrants therefor.

§ 2. FUNDING WARRANTS, HOW SOLD.] To provide for the payment of the warrants issued under the provisions of this act, the State Auditor shall issue funding warrants bearing five per cent. interest, payable at the option of the State Treasurer upon ten days' notice in writing to the party or parties taking the same. Said funding warrants shall be sold by the State Treasurer to the person offering to pay the highest price in cash for the same, and the Treasurer may advertise the said warrants for sale by published notice for ten days in some paper published at the capital of the State.

§ 3. PROCEEDS, HOW USED.] The proceeds of the sale of said funding warrants shall be used for the purpose of paying the warrants issued under the provisions of Section 1 of this act.

§ 4. IN CASE OF REIMBURSEMENT.] The State Treasurer is hereby authorized and directed to apply any money that may be appropriated by Congress for the reimbursement of the State for the extra expenses of the Constitutional Convention to the payment of the aforesaid funding warrants.

§ 5. EMERGENCY.] An emergency exists, in that the Constitution makes it the duty of the Legislative Assembly to provide for the payment of the expenses of said Constitutional Convention remaining unpaid after the appropriation therefor by Congress had been exhausted, and it being necessary that the credit of the State be maintained by the prompt payment of these liabilities, therefore this act shall take effect and be in force immediately after its passage and approval.

Approved February 10, 1890.

## CHAPTER 15.

[S. F. 198.]

## FOR PRINTING CONSTITUTION IN CERTAIN NEWSPAPERS.

AN ACT Appropriating Money to Pay Certain Newspapers for Publishing the Constitution 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 the general fund of the State not otherwise appropriated the sum of \$1,500, or as much thereof as may be required for the purpose of defraying the expense incurred for publishing the Constitution of North Dakota in the several newspapers of this State.

§ 2. PUBLISHER TO CERTIFY TO ACCOUNT.] Every newspaper in this State having published the Constitution of the State of North Dakota during the year 1889, by sending such statement to the State Auditor properly certified and sworn to shall be paid ten (10) dollars by the State Treasurer on the voucher of the State Auditor.

§ 3. EMERGENCY.] Whereas, no provision having been made for the payment of newspapers that published the Constitution, and such work having been long since performed, an emergency exists; therefore, this act shall be in force from and after its passage and approval.

Approved March 20, 1890.

## CHAPTER 16.

[S. F. 231.]

## FOR COPYING CERTAIN RECORDS.

AN ACT to Provide for the Copying of Certain Records and Making an Appropriation Therefor.

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

§ 1. RECORDS TO BE COPIED.] The following books, which are the property of the State of South Dakota, shall be copied in accordance with Section 21 of the Constitution, and the copies shall be the property of the State of North Dakota—that is to say:

Seventeen volumes, Nos. 1 to 17 inclusive, Domestic Corporations; the same being part of the archives of the office of the Secretary of Dakota Territory.

§ 2. COMPENSATION.] The Secretary of State shall cause the said books to be properly copied and shall receive such a sum as may be necessary to pay for such copying not exceeding ten cents per folio as compensation therefor.

§ 3. APPROPRIATION.] A sum sufficient for the carrying out of this act is hereby appropriated out of any moneys in the State Treasury not otherwise appropriated, and the State Auditor, on the approval of the Governor, is authorized to draw his warrants in favor of said Secretary of State in payment of said copying.

Approved April 2, 1890.

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## CHAPTER 17.

[S. F. 132.]

### FOR THE RELIEF OF THE 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 \$2,500 or so much thereof as may be necessary, to be expended by the Commissioner of Agriculture and Labor for the relief of the needy sufferers in the destitute districts, and an additional sum of five hundred dollars is also hereby appropriated, or so much thereof as may be necessary, to reimburse the Commissioner of Agriculture and Labor for necessary expenses incurred in the distribution of relief.

§ 2. AUDITOR TO ALLOW ACCOUNTS.] 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 Treasurer and he shall issue his warrant 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 to be made at the present time, 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 20, 1890.

## CHAPTER 18.

[S. F. 51.]

## FOR PUBLIC PRINTING.

## AN ACT Making an Appropriation for Certain Printing.

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

§ 1. ACCOUNTS TO BE APPROVED—APPROPRIATION.] All accounts for printing and binding required by the Governor and other State officials, and for such printing and binding as may be authorized by the Legislative Assembly of the State of North Dakota, shall be certified to according to law, and when such accounts shall have been approved in writing by the Secretary of State, whose duty it shall be to keep a record of, and carefully examine all printing so authorized, the State Auditor shall draw his warrant or warrants on the State Treasurer for such sum or sums as may be found due, and there is hereby appropriated out of any moneys in the State Treasury not otherwise appropriated a sufficient sum to pay for said printing.

§ 2. EMERGENCY.] An emergency existing for the immediate taking effect of this act, because of the absence of any law making an appropriation for printing, this act shall take effect and be in force from and after its passage and approval.

Approved December 18, 1889.

## CHAPTER 19.

[S. F. 74.]

## FOR LEGISLATIVE HAND BOOK.

AN ACT to Reimburse the Compiler and Printer of Long's Legislative Hand Book for the year 1889.

WHEREAS, T. K. Long compiled, and the Bismarck Tribune company printed and published and furnished, for the use of the Territory of Dakota, two thousand copies of Long's Legislative Hand Book for 1889, in accordance with an act of the Eighteenth Legislative Assembly of the Territory of Dakota, which act was duly

passed by both houses of the said Legislature, but failed to become a law for want of the approval thereof by the Governor; and,

WHEREAS, The expense of compiling, editing and publishing said two thousand copies of Long's Legislative Hand Book aggregated the sum of \$1,500, as set forth and provided for by the terms of said act aforesaid; and,

WHEREAS, The Territory of Dakota has not paid said amount of \$1,500 or any part thereof, to said T. K. Long and the Bismarck Tribune company or to any one in their interest; and,

WHEREAS, The Joint Commission of North Dakota and South Dakota recommended the payment by the two States respectively share and share alike, of all proper debts and liabilities of the Territory of Dakota; now, therefore,

*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 of North Dakota, not otherwise appropriated for the purpose of paying and reimbursing T. K. Long and the Bismarck Tribune company for furnishing 2,000 copies of Long's Legislative Hand Book for 1889 to the Territory of Dakota, the sum of seven hundred and fifty (750) dollars, said sum of seven hundred and fifty (750) dollars being in full for all liabilities for the proportion of said indebtedness of the Territory of Dakota due and owing from the State of North Dakota.

§ 2. EMERGENCY.] An emergency exists in that the debt existing which the bill seeks to liquidate has been justly due for a long period, and to wait until this act becomes operative by virtue of the Constitutional provision would impose an unnecessary hardship, therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 29, 1890.



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# ARBITRATION.

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## CHAPTER 20.

[S. F. 164.]

PROVIDING FOR TRIBUNALS OF CONCILIATION OR ARBITRATION.

AN ACT Providing for the Establishment of Tribunals of Conciliation or Arbitration.

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

§ 1. WHEN ARBITRATORS TO BE APPOINTED.] That whenever the parties to any suit pending in any court of record shall be desirous and willing to submit the matter involved in such suit to the decision of arbitrators, an order shall be entered directing such submission to three impartial and competent persons to be named in such order, such arbitrators to be agreed upon and named by the parties. But if the parties are unable to agree, each shall name one, and the court the third.

§ 2. TIME AND PLACE OF HEARING.] The arbitrators appointed in pursuance to the foregoing provisions, or a majority of them, shall proceed with diligence to hear and determine the matters in controversy. They shall appoint a place and time for hearing and adjourn the same from time to time, as may be necessary, but the first hearing shall be within ten days of the submission of the case and on the application of either party, and for good cause, they may postpone such hearing from time to time, not extending beyond sixty days from the submission of the case, except by the consent in writing of the parties to the suit.

§ 3. OATH.] Before proceeding to hear any testimony in the cause, the arbitrators shall be sworn to faithfully hear and determine the cause, and to make a true and just award, according to the best of their understanding, which oath may be administered by any officer authorized to administer oaths.

§ 4. SUBPŒNAES—HOW ISSUED—CONTEMPTS.] The clerk of the district court, or any justice of the peace, in any county of this State, may issue subpœnaes for the attendance of witnesses before arbitrators; if any witness after being duly summoned shall fail to attend, the arbitrators may issue an attachment to compel his attendance, and the said witness shall moreover be liable for refusing to attend the same as in trials at law. Any arbitrator may administer oaths and they may punish contempts committed in

their presence during the hearing of a cause, the same as a court of record, and may admit depositions to be read in evidence the same as in trials at law.

§ 5. AWARD OF ARBITRATORS.] The award of the arbitrators, or a majority of them, shall be drawn up in writing and signed by such arbitrators, or a majority of them, and a true copy of such award shall without delay be delivered to each of the parties thereto.

§ 6. PROCEDURE IN CASE OF FAILURE TO COMPLY WITH AWARD.] If either of the parties shall neglect to comply with the said award the other party may, at any time within one year from the time of such failure, file such award together with the submission or arbitration bond in the court named in the submission.

§ 7. FINAL JUDGMENT, EXECUTION, ETC.] The party filing such award may at the next term after such filing, by giving four days' notice of his intention to the opposite party, and if no legal exceptions are taken to such award, or other proceedings, have final judgment thereon, as on the verdict of a jury, for the sum specified in said award to be due, together with the costs of arbitration, and of the court, and execution may issue therefor as in other cases.

§ 8. CERTAIN JUDGMENTS ENFORCED BY RULE.] When the award requires the performance of any act other than the payment of money, the court rendering such judgment shall enforce the same by rule, and the party refusing or neglecting to comply with such rule may be proceeded against by attachment, or otherwise, as for contempt.

§ 9. WHEN AWARD MAY BE SET ASIDE.] If any legal defects appear in the award, or other proceedings, or if it shall be made to appear on oath or affirmation that said award was obtained by fraud, corruption or other undue means, said court may set aside such award.

§ 10. WHEN AWARD MAY BE MODIFIED.] If there be any evident miscalculation or misdescription, or if the arbitrators shall appear to have awarded upon matters not submitted to them not affecting the merits of the decision upon the matters submitted, or when the award shall be imperfect in some matters of form not affecting the merits of the controversy, and when such errors and defects, if in a verdict, could have been lawfully amended or disregarded by the court, any party aggrieved may move the court to modify or correct such award.

§ 11. APPLICATION TO SET ASIDE.] Application to set aside, modify or amend such award, as provided in the two preceding sections, may be made before the entry of final judgment on such award; *Provided*, Nothing herein contained shall be so construed as to deprive courts of chancery of their jurisdiction as in other cases.

§ 12. APPEALS.] Writs of error and appeals may be taken from any decision of the court, by the party deeming himself ag-

grieved, as in other cases, and if the Supreme Court shall remand the case such further proceedings shall be had as the nature of the case may require.

§ 13. FEES.] Each arbitrator shall be allowed for each day's attendance to the business of his appointment, two (2) dollars, to be paid in the first instance by the party in whose favor the award shall be made, but to be recovered of the other party with the other costs of suit if the award or final decision shall entitle the prevailing party to recover costs. Witnesses shall receive the same fees for attendance in arbitrations as shall be allowed them in the circuit [district] courts. Sheriffs, constables, clerks and justices of the peace shall be entitled to the same fees for services performed in relation to any arbitration as shall be allowed by law for the like services in their respective courts.

§ 14. SPEEDY HEARING TO BE HAD.] Arbitrators may be compelled by order of the court in which any cause submitted to them shall be pending to proceed to a hearing thereof and to make report without unnecessary delay.

§ 15. RECORD.] When any cause pending in any court shall be referred, as herein provided, an entry of such reference shall be made on the record, and day shall be given to the parties from time to time until the arbitrators' report, or they may be thereof discharged on filing such report.

§ 16. WHO MAY SUBMIT TO ARBITRATION.] All persons having requisite legal capacity, may by an instrument in writing to be signed and sealed by them, submit to one or more arbitrators any controversy existing between them, not in suit, and may in such submission agree that a judgment of any court of record competent to have jurisdiction of the subject matter to be named in such instrument shall be rendered upon the award made pursuant to such submission.

§ 17. OATH.] Upon a submission under the foregoing section the arbitrators shall take the same oath and may compel the attendance of witnesses and shall proceed in the same manner as if the submission had been made in a cause of pleading.

§ 18. FILING OF AWARD—ENTER OF JUDGMENT.] The award and instrument of submission may be filed in a court of record of competent jurisdiction within the same time and upon like conditions, and notice and proceedings had thereunder and judgment entered the same as if the award had been made in a suit pending in such court.

§ 19. All acts and parts of acts conflicting with the provisions of this act are hereby repealed.

Approved March 20, 1890.

# ATTORNEY GENERAL.

## CHAPTER 21.

[S. F. 22.]

### PREScribing DUTIES, OATH AND BOND OF ATTORNEY GENERAL.

AN ACT to Prescribe the Bond, Oath and Duties of the Attorney General.

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

§ 1. COMMISSION—OATH AND BOND.] That before entering upon the duties of his office, the Attorney General shall be commissioned by the Governor, and shall take 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 Attorney General to the best of my ability; and shall execute a bond to the State of North Dakota, with good and sufficient securities, [sureties] in the penal sum of \$5,000, to be approved by the Governor and filed in the office of the Secretary of State; such bond shall be conditioned for the faithful discharge of the duties of said office, and the paying over of all monies coming into his hands as provided by law.

§ 2. ADDITIONAL BOND.] Whenever the Governor shall deem any bond filed by the Attorney General insufficient, the Governor may require another bond to be furnished with sufficient sureties to be approved by him, as specified in Section 1 of this act.

§ 3. FAILURE TO GIVE BOND OR TAKE OATH.] If any person elected to the office of Attorney General shall fail to give bond or take the oath required by law within twenty days after the first Monday in January following his election or if elected to fill a vacancy, within twenty days after he is declared elected, the office shall be deemed vacant; and if being required to give additional bond, as provided in Section 2 of this act, he fails to do so within twenty days after notice of such requirement, his office may, in the discretion of the Governor, be declared vacant and be filled as provided by law.

§ 4. DUTIES OF ATTORNEY GENERAL.] The duties of the Attorney General shall be:

1. To appear for and represent this State before the Supreme Court in all cases in which the State is interested as a party.

2. To institute and prosecute all actions and proceedings in

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favor of or for the use of this State, which may be necessary in the execution of the duties of any State officer.

3. To defend all actions and proceedings against any State officer in his official capacity, in any of the courts of this State, or of the United States.

4. To consult with and advise the several State's Attorneys in matters relating to the duties of their office; and when in his judgment the interest of this State require it, he shall attend the trial of any party accused of crime and assist in the prosecution.

5. To consult with and advise the Governor and all other State officers, and give, when requested, written opinions upon all legal or constitutional questions relating to the duties of such officers respectively.

6. To prepare, when necessary, proper drafts for contracts and other writings relating to subjects to which the State is interested.

7. To give written opinions, when requested by either branch of the Legislative Assembly, upon constitutional or legal questions.

8. To enforce the proper application of funds appropriated to the public institutions of this State, prosecute breaches of trust in the administration of such funds, and when necessary prosecute corporations for failure or refusal to make the reports required by law.

9. To keep in proper books, a register of all cases prosecuted or defended by him in behalf of the State or its officers and of all proceedings had in relation thereto, and to deliver the same to his successor in office.

10. To keep in his office a book in which he shall record all the official opinions given by him during his term of office, which book shall be by him delivered to his successor in office.

11. To pay into the State Treasury all moneys received by him for the use of the State.

12. To attend to and perform any other duty which may, from time to time, be required by law.

§ 5. TO MAKE REPORTS.] He shall make an annual report to the Governor, stating the number, character, condition and result of the actions, prosecuted or defended by him in behalf of the State, the cost of prosecuting or defending each action and the amount of fines and penalties collected. He shall also direct attention to any defect in the practical operation of the laws relating to revenue and criminal offenses and suggest such amendments as in his judgment are necessary to subserve the public interest.

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

Approved March 31, 1890.

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## AUDITOR.

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### CHAPTER 22.

[H. F. 340.]

**REPEAL OF LAW IN RELATION TO APPOINTMENT.**

**AN ACT to Repeal Sections 1 and 3, of Chapter 7, of the Political Code, Being Sections 68 and 70, of Chapter 5, of the Compiled Laws of 1887.**

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

§ 1. REPEAL.] That Sections 1 and 3 of Chapter 7 of the Political Code, being Sections 68 and 70 of Chapter 5 of the Compiled Laws of 1887; be and the same are hereby repealed.

Approved March 31, 1890.

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## BANKING.

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### CHAPTER 23.

[H. F. 15.]

**ORGANIZATION AND GOVERNMENT OF STATE BANKS.**

**AN ACT to Provide for the Organization and Government of State Banks.**

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

§ 1. ASSOCIATIONS, HOW FORMED.] Associations for carrying on the business of banking under this title may be formed by any number of natural persons, not less than three, one-third of whom shall be residents of the State. They shall enter into articles of association, which shall specify in general terms the object for which the association is formed, and may contain any other provisions, not inconsistent with law, which the association may see fit to adopt for the regulation of its business, and the conduct of its affairs. These articles shall be signed by the persons unit-

ing to form the association, and a copy of them shall be forwarded to the Secretary of State of the State of North Dakota.

§ 2. CERTIFICATE.] The persons uniting to form such an organization shall, under their hands, make an organization certificate which shall specifically state:

First. The name assumed by such association, which name shall not be that of any other bank in the State.

Second. The place where the business of discount and deposit are to be carried on.

Third. The amount of the capital stock, and the amount into which its shares are to be divided.

Fourth. The names and places of residence of the shareholders and the number of shares held by each of them.

Fifth. The period at which such bank shall commence and terminate business.

§ 3. CERTIFICATE TO BE FILED WITH SECRETARY OF STATE.] The organization certificate shall be acknowledged before a clerk of some court of record or notary public, and shall be, together with the acknowledgment thereof, authenticated by the seal of such court or notary, recorded in the office of the register of deeds in the county where such bank may be established, and such certificate thus authenticated shall be transmitted to the Secretary of State, who shall record and carefully preserve the same in his office.

§ 4. POWERS.] Upon duly making and filing articles of association and an organization certificate, the association shall become as from the date of the execution of the same, a body corporate, and as such, and in the name designated in the certificate, it shall have power:

First. To adopt and use a corporate seal.

Second. To have succession for a period of twenty-five years from its organization, unless it is sooner dissolved, according to the provisions of this act, or unless its franchise becomes forfeited by some violation of law.

Third. To make contracts.

Fourth. To sue and be sued, complain and defend in any court of law or equity, as fully as natural persons.

Fifth. To elect or appoint directors, and by its board of directors to appoint a president, vice-president and chashier, define their duties, require bonds of them and fix the penalty thereof, dismiss such officers or any of them and appoint others to fill their places.

Sixth. To prescribe by its board of directors by-laws not inconsistent with the law, regulate the manner in which its stocks shall be transferred, its directors elected or appointed, its officers appointed, its property transferred, its business conducted, and the privileges granted it by law, exercised and enjoyed.

Seventh. To exercise by its board of directors or duly authorized officers or agents, subject to law, all such incidental powers

as shall be necessary to carry on the business of banking, by discounting and negotiating promissory notes, bills of exchange, drafts and other evidences of debt, by receiving deposits, by buying and selling exchange, coin and bullion, by loaning money on personal security; but no association shall transact any business, except such as is incidental and necessarily preliminary to its organization, until it has been authorized by the Secretary of State to commence the business of banking, and the Secretary of State may withhold from any association his certificate authorizing commencement of business whenever he has reason to suppose that the shareholders have formed the same for any other than legitimate objects as contemplated by this act.

§ 5. ADDITIONAL POWERS. ] Banking associations formed under this act shall have power to purchase, hold and convey real estate for the following purposes and no other:

First. Such as may be necessary for its immediate accommodation in the transaction of its business.

Second. Such as shall be mortgaged to it in good faith, by way of security, for debts previously contracted.

Third. Such as shall be conveyed to it in good faith, in satisfaction of debts previously contracted in the course of its dealings.

Fourth. Such as it shall purchase at sales under judgments, decrees or mortgages held by the association, or shall purchase to secure debts due to it; but no such association shall hold the possession of any real estate under mortgage, or the title and possession of any real estate purchased to secure any debts due to it, for a longer period than ten years.

§ 6. CAPITAL REQUIRED. ] No association shall be organized under this title in towns containing 500 inhabitants or less, with a less capital than \$5,000; in towns of over 500 and not over 1,000 inhabitants, with a less capital than \$10,000; in towns of over 2,000 and not over 3,000 inhabitants, the capital shall not be less than \$30,000, and in towns of over 3,000 inhabitants the capital shall not be less than \$50,000. At least 50 per cent. of the capital stock of every association shall be paid in before it shall be authorized to commence business; the balance of which shall be paid in in installments of not less than 10 per cent. at the end of each succeeding month from the time it is authorized to commence business; the payment of each installment shall be certified to the Secretary of State, under the oath by the president or cashier of the association.

§ 7. ORGANIZATION CERTIFICATE TO BE PUBLISHED. ] The association shall cause the organization certificate and the official authorization of the Secretary of State issued under this section to be published in some newspaper in the city or county where the association is located, for at least four consecutive weeks next after the issuing thereof.

§ 8. ARTICLES USED IN EVIDENCE. ] A certified copy of the articles of incorporation may be used in evidence in all courts for



or against such banks or any person for or against whom such evidence is necessary whether on civil or criminal trial.

§ 9. DELINQUENT STOCK, HOW SOLD.] Whenever any shareholder or his assignee fails to pay any installment on the stock, when the same is required to be paid, the directors of such association may sell the stock of the delinquent shareholder or as much thereof as is necessary to satisfy the debt, at public auction, after having given three weeks' previous notice thereof, in a newspaper published and in general circulation in the city or county where the association is located, to any person who will pay the highest price therefor to be not less than the amount due thereon, with the expenses of the advertisement and sale, and the excess if any shall be paid to the delinquent shareholder. If no bidder can be found who will pay for such stock the amount due thereon to the association and the cost of the advertisement and sale, the amount previously paid shall be forfeited to the association, and such stock shall be sold as the directors may order, within six months from the time of such forfeiture.

§ 10. CAPITAL STOCK—LIABILITY OF SHAREHOLDER.] The capital stock of each association shall be divided into shares of one hundred (100) dollars each and be deemed personal property, and transferable on the books of the association in such manner as may be prescribed by the by-laws or articles of such association; every person becoming a shareholder by such transfer shall in proportion to his shares succeed to all rights and liabilities of the prior holders of such shares, and no change shall be made in the articles of association by which the rights, remedies or security of the existing creditors of the association shall be impaired.

§ 11. INCREASE OR DECREASE OF CAPITAL STOCK.] Any association formed under this title may, by its articles of association, provide for an increase of its capital stock from time to time as may be deemed expedient, subject to the rules and limitations of this title, but no increase of capital shall be valid until the whole amount shall be paid in, in cash, and such payment certified, under oath, by the president or cashier of such association, to the Secretary of State, who shall give his certificate that the provisions of this section have been complied with, and specifying therein the amount of such increase of capital stock with his approval thereof, and that it has been duly paid in as a part of the capital thereof; any association formed under this title may by vote of its shareholders, owning two-thirds of its stock, reduce its capital to any sum, not below the amount required by this title to authorize the formation of association, but no such reduction shall be made until the amount of the proposed reduction is reported to the Secretary of State, and his approval thereof obtained in writing, and no such reduction shall be construed as affecting the liability of shareholders for any debts of the association incurred prior to such reduction.

§ 12. ASSOCIATION, HOW DISSOLVED—DUTIES OF PUBLIC EXAMINER IN RELATION THERETO.] Any association organized under the provisions of this act, may be dissolved by district court of the county where its office or principal place of business is situated, upon its voluntary application for that purpose. The application must be in writing and must set forth that at a meeting of the stockholders or members called for that purpose, the dissolution of the association was resolved upon by a two-thirds vote of all the stockholders or members, and that all claims and demands against the association have been satisfied and discharged. The application must be signed by a majority of the board of directors or other officers having the management of the affairs of the association, and must be verified in the same manner as a complaint in a civil action. A verified copy of the application shall be filed with the Public Examiner or such State officer as is by law authorized to examine such associations, within ten days after the filing of such application with the district court. If the court is satisfied that the application is in conformity with this act, it must order the application to be filed, and that the clerk give not less than thirty nor more than fifty days' notice of the application by publication in some newspaper published in the county, and if there are none such, then by advertisement posted up in five of the principal public places in the county. At any time before the expiration of the time of publication, any person may file his objections to the application. Before the final hearing and determination of the application, the Public Examiner shall make a thorough examination of the affairs of such association and file a certified statement of such examination with the clerk of the court of the county where such application is made, which statement shall be part of the papers in the case. After the time of publication has expired, the court may upon five days' notice to the persons who have filed objections, or without further notice if no objections have been filed, proceed to hear and determine the application, and if all the statements therein made are shown to be true, the court must declare the association dissolved. No stockholder or officer of such association shall be allowed to withdraw from such association, or surrender or dispose of his shares of stock, after the filing or making such application for dissolution, and prior to the final determination of the case. Upon the dissolution of such association by the district court, the clerk of said court shall forthwith notify the Secretary of State of such dissolution, by sending a copy of the order of the court, and said order and notice shall be filed by the Secretary of State with the original certificate of organization. The application, notices and proof of publication objections (if any) and declaration of dissolution, constitute the judgment roll, and from the judgment an appeal may be taken in the same manner as in other actions.

§ 13. DIVIDENDS.] The directors of any association organized under this act may semi-annually declare a dividend of so much

of the net profits of the association as they shall judge expedient, but each association shall, before the declaration of a dividend, carry one-tenth part of its net profits of the preceding half year to its surplus fund until the same shall amount to 20 per cent. of its capital stock.

§ 14. QUALIFICATION OF DIRECTOR.] Every director must own in his own right at least ten shares of the capital stock of the association of which he is a director; any director who ceases to be the owner of ten shares of the stock, or who becomes in any other manner disqualified, shall thereby vacate his place.

§ 15. CAPITAL TO REMAIN INVIOLEATE—BAD DEBTS.] No association or any member thereof shall, during the time it shall continue its banking operations, withdraw or permit to be withdrawn, either in form of dividends or otherwise, any portion of its capital; if losses have at any time been sustained by such association equal or exceeding its undivided profits then on hand, no dividend shall be made; and no dividend shall be made by any association while it continues its banking business to an amount greater than its net profits on hand, deducting therefrom its losses and bad debts; all debts due to an association, on which the interest is past due and unpaid for a period of six months, unless the same are well secured and in process of collection, shall be considered bad debts within the meaning of this section; but nothing in this section shall prevent the reduction of capital of the association under Section 11.

§ 16. INTEREST.] Such association may demand and receive for loans on personal security, or for notes, bills, or other evidences of debt, discounted, such rate of interest as may be agreed upon, not exceeding the amount authorized by law to be contracted for, and it shall be lawful to receive the interest according to the ordinary usage of banking institutions.

§ 17. REPORTS, PENALTY FOR FAILURE TO MAKE.] Every association shall make at least four reports each year to the Public Examiner, according to the form which may be prescribed by him, verified by the oath of the president or cashier and attested by at least two of the directors; such report shall exhibit in detail and under appropriate heads the resources and liabilities of the association at the close of business on any past day by him specified, and shall be transmitted to the Public Examiner within seven days after the receipt of such request from him, and in the same form shall be published in a newspaper published in the city or county where such association is located, at the expense of the association. The Public Examiner shall also have power to call for special reports from any association whenever in his judgment the same are necessary, in order to [obtain] a full and complete knowledge of its condition; every association which fails to make and transmit any report required under this section shall be subject to a penalty of two hundred (200) dollars for each offense.

§ 18. RESPONSIBILITY OF SHAREHOLDERS.] The shareholders

of every association organized under this title, shall be individually responsible, equally and ratably, and not one for the other for all contracts, debts and engagements of such association made or entered into to the extent of the amount of his stock therein, at the par value thereof, in addition to the amount invested in, and due on such shares.

§ 19. CERTAIN LOANS PROHIBITED.] No association shall make any loans or discounts on the security of the shares of its own stock, nor be the purchaser or holder of any such shares, unless such security or purchase shall be necessary to prevent loss upon a debt previously contracted in good faith, and stock so purchased or acquired shall within six months be sold or disposed of at public or private sale.

§ 20. ASSETS AND LIABILITIES—RESERVE.] Each association shall at all times have on hand in available funds an amount equal to 20 per cent. of its deposits, one-half of which may consist of balances due to the associations from good solvent banks, and one-half shall consist of cash on hand; whenever the available funds shall be below 20 per cent. of its deposits such association shall not increase its liabilities by making any new loans or discounts, otherwise than by discounting or purchasing bills of exchange payable at sight, nor make any dividends of its profits until the required proportion between the aggregate amount of deposits and its lawful money reserve has been restored; and the Public Examiner may notify any association whose lawful money reserves shall be below the amount above required to be kept on hand, to make good such reserve, and if such association shall fail so to do for a period of thirty days after such notice, the Public Examiner may impose a penalty of not less than one hundred (100) dollars, or more than five hundred (500) dollars, which shall be collected in the same manner as other penalties prescribed in this act.

§ 21. FINES AND PENALTIES, HOW RECOVERED.] All fines and penalties heretofore provided for, to which any association organized under this act may become subject to, shall be recovered on complaint of the Public Examiner, before any court having competent jurisdiction, and all fines and penalties so recovered shall be paid into the State Treasury.

§ 22. LOANS AND DISCOUNTS.] The total liability to any association of any person or company, corporation or firm, for money borrowed, including in the liabilities of a company or firm, the liabilities of the several members thereof shall not at any time exceed 15 per cent. of the the capital stock of such association, actually paid in, but the discount of bills of exchange drawn in good faith against actual existing values or loans upon produce in transit or in store as collateral security and the discount of commercial or business paper actually owned by the person negotiating the same shall not be considered as money borrowed.

§ 23. PENALTIES FOR VIOLATION OF ACT.] Any person or persons violating the provisions of this act, not hereinbefore specially

provided for, shall upon conviction thereof pay a fine of not less than fifty (50) dollars or more than five hundred (500) dollars for each offense, to be recovered before any court having competent jurisdiction, and all fines and penalties so recovered shall be paid into the State Treasury.

§ 24. FALSE STATEMENTS—PENALTY.] Every officer, agent or clerk of any association under this title, who willfully and knowingly subscribes or makes any false statements or entries in the books of such association or knowingly subscribes or exhibits any false paper with the intent to deceive any person authorized to examine as to the condition of such association, or willfully subscribes or makes false reports, shall be subject to imprisonment at hard labor in the State's prison for such term, not less than one year or more than ten years, as the court trying him may designate.

§ 25. INSOLVENT BANK NOT TO RECEIVE DEPOSITS.] No banking association shall accept or receive on deposit, with or without interest, any money, bank bills or notes, or United States treasury notes or currency, or other notes, bills or drafts, circulating as money or currency, when such banking association is insolvent.

§ 26. PENALTY FOR VIOLATION OF PRECEDING SECTION.] If any such banking association shall receive or accept on deposit, any such deposits as aforesaid when insolvent, any officer, director, cashier, manager, member, party or managing party thereof, who shall knowingly receive or accept, be accessory or permit, or connive at the receiving or accepting on deposit therein or thereby, any such deposits as aforesaid, shall be guilty of a felony, and upon conviction thereof shall be punished by a fine not exceeding \$10,000, or by imprisonment in the penitentiary not exceeding five years, or by both fine and imprisonment as aforesaid.

§ 27. WHEN BANKS MUST ORGANIZE UNDER THIS ACT—PENALTY.] It shall be unlawful for any individual, firm or corporation, to continue to transact a banking business or to receive deposits for a period longer than six months immediately after the passage and approval of this act, without first having complied with and organized under the provisions of this act. Any person violating the provisions of this section either individually or as an interested party in any association or corporation, shall be guilty of a misdemeanor, and on conviction thereof be fined not less than five hundred (500) dollars nor more than \$1,000, or imprisonment in the county jail not less than ninety days or either or both at the discretion of the court.

§ 28. FORFEIT OF FRANCHISE FOR FAILURE TO OBEY ORDER OF PUBLIC EXAMINER.] Every association organized under this title which shall refuse or neglect to comply with any requirement lawfully made upon it by the Public Examiner, pursuant to this chapter, for the period of ninety days after demand in writing is made, shall be deemed to have forfeited its franchise, and any failure on the part of such association to comply with, or any vio-

lation of any of the provisions of this act shall work a forfeiture of its franchise and in either case the Attorney General, upon demand of the Public Examiner, shall commence an action for the purpose of annulling the existence of said corporation.

§ 29. PUBLIC EXAMINER EX-OFFICIO SUPERINTENDENT OF BANKS. ]  
The Public Examiner of North Dakota shall be ex-officio Superintendent of Banks; he shall as often as shall be deemed necessary and proper either in person or by agent duly appointed by him, examine every bank organized under this law; and he or his agent, in case he appoints one, shall have power to make a thorough examination into the affairs of the association, and in so doing may examine any of the officers, agents or clerks thereof on oath, and shall make a full and detailed report in writing of the condition of the association so examined to the Governor of the State, a copy of which report shall be filed in the office of the Secretary of State, which shall be open to all persons doing business with such association. No person shall be appointed to be such agent for said examiner to examine the affairs of any association of which he is a member, and the Public Examiner shall not be directly or indirectly interested in any association or in any way connected with any bank.

§ 30. EMERGENCY. ] Whereas, there is an emergency existing in that there is no adequate existing law governing banks and banking, this act shall take effect and be in force immediately from and after the date of its passage and approval.

Approved February 20, 1890.

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## BOARD OF AGRICULTURE.

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### CHAPTER 24.

[S. F. 82.]

#### PROVIDING FOR AN ANNUAL EXHIBIT OF AGRICULTURAL PRODUCTS.

AN ACT to Provide for the Annual Exhibits of the Agricultural, Stock Breeding, Horticultural, Mining, Mechanical, Industrial and other Products and Resources of the State of North Dakota, and to Provide for a State Board of Agriculture.

#### PREAMBLE.

WHEREAS, It has become necessary to provide for a more complete and efficient exhibit of the production and resources of the State of North Dakota, and

WHEREAS, It is advisable that such exhibits should be held and continued under the management and direction of a State Board of Agriculture, and

WHEREAS, The citizens of Grand Forks have offered and are about to donate to the State of North Dakota for the purpose of such exhibits, eighty acres of land, within one mile of the city of Grand Forks, in the county of Grand Forks, and State of North Dakota, upon the condition that the same shall be forever used for the purpose of such exhibits under the management of said State Board of Agriculture or its successor; now, therefore,

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

§ 1 BOARD, HOW CREATED.] There is hereby created a Department of Agriculture for the promotion of stock breeding, agriculture and horticulture, manufactures and domestic arts, which said department shall be managed by a board styled "State Board of Agriculture," to consist of one person from each judicial district in this State, who shall be appointed by the Governor, by and with the consent of the Senate, and who shall hold their office for two years, or until their successors are appointed and qualified; *Provided, however,* That the first board appointed under the provisions of this act shall hold office only until the next session of the Legislative Assembly, or until their successors shall be duly appointed and qualified. The said State Board of Agriculture shall fill all vacancies occurring therein, except when the Legislative Assembly is in session, and the persons so appointed by said board to fill any such vacancies shall hold office until the next session of the Legislative Assembly following such appointment, at which time the Governor, with the concurrence of the Senate, shall fill all vacancies.

§ 2. CITIZENS TO CONVEY CERTAIN LANDS TO THE STATE.] For the purpose of carrying out the provisions of this act, the citizens of Grand Forks, in the county of Grand Forks, in the State of North Dakota, are hereby empowered and authorized to convey to the State of North Dakota eighty acres of land within one mile of the said city of Grand Forks. Said property when so conveyed shall be held by the State of North Dakota for the following public purposes and no other, viz: For the purpose of exhibiting thereon, under the management of the State Board of Agriculture, or its successors, annually, the agricultural, stock-breeding, horticultural, mining, mechanical, industrial and other pursuits and resources of the State of North Dakota, including proper exhibits of the arts, sciences and all other public displays pertinent to, or attendant upon, exhibitions and expositions of human art, industry or skill.

§ 3. ANNUAL EXHIBITS.] There shall be annually held, under the direction of said State Board of Agriculture, upon the premises so conveyed to the State of North Dakota by the citizens of Grand Forks, for such period as the said board may determine,

such exposition and exhibit of the products of the State of North Dakota aforesaid, as said board may provide, and said board is hereby empowered to make all needful rules and regulations for the government of said expositions in providing for the same, and in providing for, and paying such premiums at such expositions, as they shall deem fit, and in such manner as they shall desire, and to do and exercise, upon said premises, any and all acts, which they may lawfully do, and are empowered to invite the cooperation of any other state, territory or country in said exposition.

§ 4. BOARD OF CONTROL, RULES, ETC.] The custody and control of said premises, together with adjoining property, which may be added thereto, is hereby vested in the State Board of Agriculture, and the general office of said board shall be located and maintained upon said premises, and said board is hereby authorized, required and empowered to maintain said offices upon said premises, wherein shall be contained the property and records of said board; and the entire care, custody, management and control of said premises and structures thereon shall be vested in said board. The said State Board of Agriculture is hereby authorized and empowered to make any and all regulations, rules and provisions, not inconsistent with law, which shall, in their judgment, be necessary or proper for the government, management and control of said premises, and all expositions to be held thereon, and all such needful rules and regulations concerning the government and deportment of the public thereon which may be requisite and proper.

§ 5. GOVERNING PREMIUMS—PROPERTY NOT TO BE INCUMBERED.] Any and all monies expended by said State Board of Agriculture for premiums or exhibits or other displays or which may hereafter be appropriated by the State of North Dakota to said board for such purposes, shall be expended upon and for such expositions and displays as shall be held by the said board upon the premises aforesaid; *Provided, however,* That nothing in this act or in the instrument of donation to the said State of North Dakota, shall be construed or taken as giving said State or said board, or its successors any power or authority to charge or incumber said property at any time in any manner whatever.

(Section 6 appropriating \$5,000 annually, not approved by the Governor.)

§ 7. MEETINGS OF BOARD OF AGRICULTURE—OFFICERS.] The State Board of Agriculture created by this act shall meet annually for the election of officers at Grand Forks, county of Grand Forks, State of North Dakota, in the office of said board on the premises hereinbefore referred to, on second Tuesday of March. At such meeting they shall elect from their own number, a president and vice-president of the board, who shall serve until the next annual election next succeeding their election.

§ 8. SECRETARY, DUTIES OF.] The said board shall also at



ther annual meeting appoint some person, not a member of the board, secretary thereof, and shall fix his compensation, which shall not exceed two hundred (200) dollars per annum, and who shall hold his office during the pleasure of the board. He shall perform all such duties as usually pertain to the office of secretary, or as shall be required of him by said board.

§ 9. TREASURER, DUTIES OF.] Said board shall also appoint at their annual meeting some person, not a member of the board, treasurer thereof, and fix his compensation, which shall not exceed one hundred (100) dollars per annum. He shall give bond in such sum and with such surety as the said board shall require or direct, which bond shall be conditioned upon the faithful discharge of the duties of his office. He shall keep an accurate itemized account of all monies received by him as such treasurer, and also of all monies paid out, and shall make an annual report of all such receipts and expenditures to the board at their annual meeting, or oftener if required by direction of the board.

§ 10. SPECIAL POLICE, HOW APPOINTED.] It shall be lawful for the State Board of Agriculture, at or before the time of holding its annual fair, to select and appoint as many persons to act in the capacity of special police, as may, by the said board be deemed requisite to insure peace and good order on or about the grounds or place of holding such fair, for and during the holding of the same; *Provided*, That such persons, before entering upon the duties of special police shall receive their authority from, and take the oath of office before any judge or justice of the peace holding his office in the town or municipal corporation most contiguous to the fair grounds or place of holding such fair, and shall receive from such judge or justice of the peace, a certificate under seal of their appointment to act as such special police, which shall be indicated by some appropriate badge of office, and when so authorized they shall be clothed with full police powers.

§ 11. PENALTY FOR TRESPASS.] Whoever trespasses on any fair grounds to commit any depredations upon the property of any agricultural society by cutting or destroying any timber or trees, breaking or carrying away any box, trough, stall, bench, fence, lock, door, gate, lumber or other appurtenances to any fair grounds whether within or without the enclosure thereof, shall be fined not less than five (5), nor exceeding two hundred (200) dollars, and shall be liable civilly for all damages sustained by such unlawful acts. For the purpose of judicial proceedings the fair grounds and precincts thereof shall be deemed to be within and part of the county of Grand Forks, and the courts of said county shall have jurisdiction of all the crimes and offenses committed within the same.

§ 12. POWERS OF BOARD—STATE NOT LIABLE FOR DEBTS.] The State Board of Agriculture, in its name, may contract and be contracted with, may purchase, hold or sell property, may sue or be

sued, in all courts or places; but this State shall never be liable for any debt or contract of said board.

§ 13. "FAIR" CONSTRUED.] Wherever the word "fair" occurs in this act, it shall be held to mean a *bona fide* exhibition of the four principal classes of live stock together with agricultural and horticultural products and mechanical arts.

§ 14. COMPENSATION OF OFFICERS.] The officers and members of the board, except the secretary and treasurer, shall serve without pay; but shall receive mileage at the rate of ten (10) cents per mile, one way from their home to the place of meeting of the society, which shall be paid by the State Treasurer, upon a warrant issued and certified by the President of the State Board of Agriculture.

§ 15. ANNUAL REPORTS.] The State Board of Agriculture shall make an annual report to the Governor of the State of North Dakota. Said report shall contain a full and complete review of the work performed by said board, and the acts and doings thereof, and no other annual report shall be made by said board. The said annual report shall be delivered to the Governor on or before the fifteenth day of December in each year.

§ 16. REPORTS TO BE PUBLISHED—APPROPRIATION.] Said State Board of Agriculture shall append to and publish with its report, the annual report of the State Entomologist, and such other reports and essays connected with agriculture, horticulture, manufactures or the domestic arts, as, in the judgment of the said board, the interests of the State require; said annual report and appended essays not to exceed 700 printed pages, and 1,000 copies of said report shall be printed and published annually in pamphlet form by the public printer of the State at the contract rates; and a sufficient amount of money is hereby appropriated out of the State Treasury to pay for publishing the same.

§ 17. REPEAL.] This act shall repeal and take the place of Article 3, Political Code—Compiled Laws of 1887—entitled "Department of Agriculture," as amended by Chapter 7 of the Session Laws of 1889; and all other acts and parts of acts at variance or in conflict with the provisions of this act are hereby repealed.

Approved March 3, 1890.

# BOARD OF UNIVERSITY AND SCHOOL LANDS.

## CHAPTER 25.

[H. F. 286.]

### POWERS AND DUTIES—APPROPRIATION.

AN ACT Providing for the Organization, and Fixing and Defining the Powers and Duties of the Board of University and School Lands, and Making an Appropriation Therefor.

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

§ 1. BOARD, HOW CONSTITUTED.] The Superintendent of Public Instruction, Governor, Attorney General, Secretary of State and State Auditor shall constitute the Board of University and School Lands. Such board shall be organized as follows: The Governor shall be *ex-officio* president of such board, the Superintendent of Public Instruction shall be *ex-officio* secretary thereof, and the State Auditor shall be *ex-officio* recorder thereof. In the absence of the president or secretary, the Attorney General shall act as president or secretary as the case may require. Such board when acting as such must act personally. No member thereof can be represented in such board by any assistant or clerk in the office of which such member is the chief officer.

§ 2. AUTHORITY.] Subject to the provisions of this act, such board shall have full control of the selecting, leasing and sale of all the public lands of the State, and the investment of the permanent funds derived from the sale thereof, or from any other source; *Provided*, That all such lands granted to the State by Congress, shall be selected by the Governor, or his duly authorized agent, subject to such rules and regulations as may be prescribed by the Secretary of the Interior.

§ 3. SECRETARY.] The secretary of said board shall keep, in a suitable book, a full and correct record of all their proceedings at every session of the board, which record when approved shall be signed by the president and secretary.

§ 4. MEETINGS OF BOARD.] Said Board of University and School Lands shall meet regularly in the office of the Superintendent of Public Instruction on the last Saturday of each month, at 10 o'clock a. m. Special meetings of the board may be held at any time at the written call of the president or any two members.

§ 5. QUORUM.] Any three members of said board shall constitute a quorum. But said board shall not purchase any bond or bonds or mortgages except at a legal session thereof, nor unless every member of the board is notified in time to be present at such meeting, and notified also that the question of purchasing said bonds or mortgages is to be considered thereat, designating the bonds and mortgages; nor unless a majority of all the members of said board vote in favor of the purchase thereof.

§ 6. AUDITOR TO BE EX-OFFICIO RECORDER, KEEP RECORDS AND MAKE REPORTS TO GOVERNOR.] It shall be the duty of the State Auditor as *ex-officio* recorder of said board to keep in a suitable book or books a full and complete record of the selection, leasing, sale and issuing of patents of all lands belonging to the State or in which the State has an interest, or which are held in trust by the State. He shall also keep in suitable books a record showing a detailed statement of the condition of all the permanent funds under the control of said board, the amount of each fund, how invested, when due, interest paid, and every other act in any manner connected with the management of said funds, and shall biennially report all such investments to the Governor to be laid before the Legislative Assembly.

§ 7. INVESTMENTS OF SCHOOL FUNDS, HOW MADE.] Said Board of University and School Lands shall have the power, and it is hereby made their duty, from time to time, to invest any monies belonging to any of the permanent funds of the common school, University, School of Mines, Reform School, Agricultural College, Deaf and Dumb Asylum, Normal School, and all other permanent funds derived from the sale of the public lands or from any other source, 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.

§ 8. RECORDS.] Said board shall also keep such other books as may be necessary to properly register and describe all bonds and mortgages offered to them, and all bonds and mortgages bought or taken by them for the benefit of any of the permanent funds under their control. Such record books shall be ruled so as to enable the board to register the name and residence of the person offering to sell any such bond or bonds or mortgages, and name and residence or location of the owner or district for whom such offer is made, and a full and detailed description of every bond, whether United States, State, or school district, and the date, number, series, amount and rate of interest of each bond, and when the interest and principal, respectively are payable; and such record shall be made of every such bond and mortgage before the board shall act upon the question of purchasing the same.

§ 9. RECORDS ALWAYS OPEN FOR INSPECTION.] All the records

and record books of such board shall at all times be open for the inspection of every member of said board and other State officers, and any member or committee of the Legislative Assembly or either house thereof.

§ 10. TREASURER CUSTODIAN OF FUNDS.] All monies belonging to the permanent funds derived from the sale of any of the public lands, or from any other source, shall be paid to and held by the State Treasurer, and be subject to the order of the board of university and school lands. The State Treasurer shall also be the custodian of all bonds, notes, mortgages and evidences of debt arising out of the management of the permanent funds derived from the sale of any of the public lands of the State or from any other source.

§ 11. INVESTMENTS, HOW UNPAID MONIES TO BE COLLECTED.] It shall be the duty of said Board of University and School Lands, from time to time, and as soon as may be practicable, to collect all monies due and owing to any of the permanent funds under their control, and make investments of the same as hereinbefore required. If any such monies shall remain unpaid for thirty days after the same become due and payable, the board shall order the Attorney General to proceed to collect the same by civil action, to be brought and prosecuted in the name of the State.

§ 12. MANNER OF INVESTING PERMANENT FUNDS.] In the investment of the permanent funds under their control, said board shall authorize the State Auditor to draw his warrant on the State Treasurer, payable out of the fund invested, for the purchase price of the bond or mortgages, and a warrant payable out of the annual fund for any accrued interest that may have accumulated on the bonds or mortgages purchased; which warrants, previous to their delivery, shall be registered by the State Treasurer in a book provided for that purpose.

§ 13. PATENTS.] The Governor shall sign, and cause to be issued under the seal of the State Auditor and attested by the Secretary of State, patents conveying the title of the State to the purchasers of any of the public lands belonging to the State when the terms of purchase have been fully complied with, and all rents and taxes due on said lands have been paid; and the Governor shall in like manner sign and cause to be issued patents of said lands, to any purchaser of the right, title and interest of the original purchaser, his heirs or assigns, at an execution or mortgage sale, upon presentment to him of the certificate of the Auditor that the whole amount of principal, interest, rents and taxes due thereon has been paid according to law, and that said purchaser at execution or mortgage sale is entitled to a patent to the land described in such certificate.

§ 14. FEE TO REMAIN IN STATE UNTIL PATENTS ISSUED—LANDS SUBJECT TO TAXATION FROM DATE OF CONTRACT—TRESPASSERS.] The fee of each parcel of said land shall be and remain in the State until patents are issued for the same respectively upon full

payment as aforesaid; *Provided*, That the lands directed 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. And it is hereby made the duty of the respective county treasurers in this State to certify to the State Auditor a statement of all taxes remaining unpaid, on the first Monday in October in each year, upon any of the school or public lands held under contract of purchase from the State; which statement shall be made and forwarded to the State Auditor not later than November first in each year. In case of non-compliance by the purchaser, his heirs or assigns, with the terms of the contract of sale or with the provisions of law applicable thereto, any and all persons being or continuing in possession of any such lands after a failure to comply with the terms of the contract as aforesaid, or with such provisions of law as aforesaid, without a written permission of the Board of University and School Lands, shall be deemed and held to detain such land forcibly and without right, and to be trespassers thereon.

§ 15. PATENTS TO BE RECORDED.] The register of deeds of the several counties of this State are authorized to record all patents issued by the Governor pursuant to the provisions of this act; and the record thereof shall have the same effect as the record of other conveyances executed according to the laws of the State.

§ 16. INCIDENTAL EXPENSES.] The necessary incidental expenses of the Board of University and School Lands shall be paid out of the State Treasury, and, upon satisfactory vouchers therefor, the State Auditor shall issue his warrant for the same.

§ 17. APPROPRIATION FOR LAND OFFICE FEES, ETC.] There is hereby appropriated out of any funds in the Treasury not otherwise appropriated the sum of \$10,000, or so much thereof as shall be found necessary for the payment of the United States land office filing fees upon said public lands to be selected as provided in this act, and the further sum of \$5,000 or so much thereof as may be necessary for the payment of the salary and expenses of the agent selecting the same, clerk hire of the board, record books, blanks, and such other expenses as shall be necessarily incurred by said board in carrying out the provisions of this act.

§ 18. APPROPRIATION FOR INTEREST.] There is hereby annually appropriated such sums as shall be found necessary for expenses of purchase, and payment of accrued interest at time of purchase, of investment bonds or mortgages for the permanent funds under the control of said board payable from the respective fund for which said purchase is made.

§ 19. EMERGENCY.] Whereas, it is necessary that a law providing for the organization of the Board of University and School Lands and defining their powers and duties be in effect imme-

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diately, this act shall take effect and be in force from and after its passage and approval.

Approved March 20, 1890.

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## BOARDS OF HEALTH.

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### CHAPTER 26.

[H. F. 212.]

#### COUNTY BOARDS OF HEALTH.

AN ACT to Amend Section 7 of Chapter 63 of Session Laws of 1885, Relating to Boards of Health, Being Section 198 of Compiled Laws of 1887.

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

§ 1. AMENDMENT.] That Section 7 of Chapter 63, of the Session Laws of 1885, being Section 198 of Compiled Laws, be amended to read as follows:

“Sec. 7. There is hereby established a county board of health, composed of president, vice-president and superintendent. The state's attorney in each county shall be president of said county board. The board of county commissioners shall appoint some suitable person who is a resident of the county vice-president; and they shall also appoint said superintendent of public health, for the county, who shall be learned in medicine and hold a license to practice medicine and surgery within the State, and the several persons thus appointed shall hold their offices for two years and until their successors are elected and qualified.”

Approved March 31, 1890.

# BOILER INSPECTION.

## CHAPTER 27.

[S. F. 4.]

### BOARD OF BOILER INSPECTORS, LICENSES, ETC.

AN ACT to Establish a Board of Inspectors for Steam Vessels and Steam Boilers, and to Provide for Licensing Engineers of Steam Engines.

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

§ 1. BOARD, HOW APPOINTED—TERM OF OFFICE.] There shall be appointed by the Governor a Board of Inspectors, consisting of one from each of the several judicial districts of the State, whose duty it shall be to inspect all steam boilers in use within his district, not subject to inspection under the laws of the United States, and to examine and grant certificates of license to all steam engineers entrusted with the care and management of steam boilers within said district. Said inspectors shall hold their respective offices for two years from the date of appointment, unless removed for cause by the Governor.

§ 2. ELIGIBILITY.] No person shall be eligible to hold office of inspector of boilers who is either directly or indirectly interested in the manufacture or sale of boilers or steam machinery, or any patented article required to be used or of general use in the construction of steam boilers or engines, or who is not of good moral character, a practical engineer, and suitably qualified by experience in the construction of steam boilers, or such experience in their manufacture as to enable him to perform the duties of the office, and no person shall enter upon or perform any of the duties of inspector who has not taken and subscribed an oath, and filed the same with the Secretary of the State, that he will faithfully and impartially perform the duties of his office.

§ 3. DUTIES OF BOARD.] Said inspectors shall, in April next after the passage of this act, and each year thereafter, meet as a board at Bismarck, North Dakota, and establish such rules and regulations for the inspection of the steam boilers herein provided for, as shall be required by the terms of this chapter. They shall also prescribe rules and regulations for the inspection of the hulls, machinery, boilers, steam connections, fire apparatus, life saving appliances and equipments of all steamers, propelled in whole or in part by steam,



and navigating the inland waters of the State. They shall also designate the number of passengers that each steam vessel may safely carry, and it shall be unlawful for any master or owner of any steam vessel herein provided for, to carry a greater number of passengers than is allowed by the inspector's certificate, and such regulations, when approved by the Governor, shall have the force of law.

§ 4. PENALTY FOR FAILURE TO HAVE STEAM BOILER INSPECTED.] Every owner, lessee or other person having charge of steam boilers on any boat, or boat propelled in whole or in part by steam, not subject to inspection under the laws of the United States, shall cause the same to be inspected at least once in each year by the inspectors herein provided for, and every such owner, lessee or person having charge of such boilers or steam vessel, who shall raise steam and operate such boilers and machinery without such inspection, shall be subject to a penalty of one hundred (100) dollars, said amount to accrue to the State.

§ 5. STEAM VESSELS, WHEN TO BE INSPECTED—CERTIFICATE.] The said inspectors shall once in each year at least, upon application, in writing, of the owner, lessee or manager, carefully inspect the hull, boiler, machinery and equipments of all steam vessels liable to inspection under this act, and shall satisfy themselves that every such vessel is of a structure suitable for the service in which she is to be employed and has suitable accommodations for passengers and crew and is in a condition to warrant the belief that she may be used in navigation as a steamer, with safety to life, and that such equipments as life preservers, floats, pumps, hose, anchors and other things necessary to insure safety, have been provided. When the inspection of a steam vessel is completed and the inspectors approve the vessel and her equipments throughout, they shall make and subscribe a certificate to the Secretary of the State, in such form as the Board of Inspectors shall prescribe; such certificate shall be subscribed and verified by the oath of the inspector making it, and a copy of said certificate shall be furnished by the inspector to the managing owner or master of said steam vessel, who shall post the same in a conspicuous place on said boat. The original certificate shall be kept on file in the office of the Secretary of the State.

§ 6. MANNER OF TESTING.] The said inspectors shall, in addition to their duties as inspectors of steam vessels, inspect all steam boilers or steam generators before the same shall be used, and once at least in each year thereafter they shall subject all boilers to hydrostatic pressure, and shall satisfy themselves by a thorough examination inside and out, and by hammer test, after hydrostatic pressure, that the boilers are well made of good and suitable material; that the openings for the passage of water and steam respectively, and all pipes and tubes exposed to heat are of proper dimensions and free from obstructions; that the flues are circular in form; that the friction (fire line) of the fur-

nace is at least two inches below the prescribed minimum water line of the boilers; that the arrangements for delivering the feed water are such that the boilers cannot be injured thereby, and that such boilers and their steam connections may be safely employed without peril to life. They shall also satisfy themselves that the safety valves are of suitable dimensions, sufficient in number and properly arranged, and that the safety valve weights and springs are properly adjusted so as to allow no greater pressure in the boilers than the amount prescribed by the inspection certificate; that there is a sufficient number of guage cocks properly inserted, suitable guages that will correctly record the pressure of steam; and that a fusible plug is properly inserted, so as to fuse by the heat of the furnace whenever the water in the boilers falls below its prescribed limits, and that adequate and certain provisions for an ample supply to feed the boilers at all times so that in high pressure boilers, the water shall not be less than four inches above the top of the flues, and that means for blowing out are provided so that the mud and sediment may be removed while the boiler is under pressure of steam. In subjecting to hydrostatic tests, boilers usually designated as high pressure, the inspector shall assume one hundred and twenty-five pounds to the square inch as the maximum pressure allowable as a working pressure for new boilers of forty-two inches in diameter, made in the best manner, of plates one-fourth of an inch thick, of good materials; but the inspector shall rate the working power of all high pressure boilers according to their strength, compared with this standard, and in all cases the test applied shall exceed the working power allowed, in the ratio of one hundred and sixty-five to one hundred and ten. In subjecting to the hydrostatic test boilers usually designated as low pressure, the inspector shall allow as a working power for each new boiler, a pressure of only three-fourths the number of pounds to the square inch to which it has been subjected by the hydrostatic test. Should the inspector be of the opinion that any boiler, by reason of its construction or material, will not safely allow so high a working pressure as herein provided, he may, for reasons to be stated specially in his certificate, fix the pressure of such boiler at less than three-fourths of the test pressure. No boiler or steam pipe nor any of the connections therewith, shall be approved which is made in whole or in part of bad material or is unsafe from any cause. Nothing herein shall be construed to prevent the use of any boiler or steam generator which may not be constructed of riveted iron or steel plates, when the Board of Inspectors have satisfactory evidence that such boiler or steam generator is equal in strength and as safe from explosion as boilers of the best quality constructed of riveted iron or steel plates.

§ 7. PENALTY FOR CONSTRUCTING IMPERFECT STEAM BOILER.]  
Every person who constructs a boiler or steam pipe of iron or steel plates, known to be faulty or imperfect, or who drills any rivet-hole

to make it come fair, or who delivers any such boiler for use, knowing it to be imperfect in its flues, flanges, riveting, bracing, or in other of its parts, shall be fined two hundred (200) dollars, one-half for the use of the informer.

§ 8. SPECIAL INSPECTIONS.] In addition to the annual inspection, it shall be the duty of each inspector to examine at any time, when in his opinion such examination shall become necessary, all such boilers within his district as shall become unsafe from any cause and to notify the owners or person using such boilers of any defect, and what repairs are necessary in order to render them safe; and it shall be the duty of the person operating or owning any such boiler to cease to use the same until such repairs are made; and in case of failure to comply with the requirements of said inspector, the person operating or owning any such boiler shall be liable to a fine not exceeding one hundred (100) dollars, and liable for any damage to person or property resulting therefrom.

§ 9. FUSIBLE PLUGS.] Every steam boiler shall be provided with a fusible plug of good Banca tin, inserted in the flues, crown-sheet or other part of the boiler most exposed to the heat of the furnace when the water falls below the prescribed limits.

§ 10. INSPECTORS TO HAVE FREE ACCESS.] It shall be the duty of owners or managers of steam boilers, mentioned in this act, to allow said inspector free access to the same, and it is hereby made the duty of engineer operating the same to assist the inspector in his examination, and to point out any defect they may know in the boiler or machinery in their charge.

§ 11. LICENSE, WHEN REVOKABLE—WHO QUALIFIED TO OPERATE STEAM BOILERS.] No person shall be intrusted with the operating of any steam boiler or steam machinery who has not been examined by an inspector and found competent to perform the duties of an engineer and receive from such inspector a written or printed license to so act. Engineers shall be divided into three classes, viz: chief engineer, assistant engineer and special engineer. No license shall be granted to any person to perform the duties of chief engineer whose knowledge of steam machinery and experience as an engineer is not such as to justify the belief that he is competent to take charge of all classes of boilers and machinery. No license shall be granted to any person to act as assistant engineer unless his knowledge of steam machinery and habits of life are such as to warrant the belief that he is competent to manage safely and without danger to life, ordinary steam machinery. Special engineers may be licensed to operate steam thresher engines and engines of kindred class, when found on examination to be sufficiently acquainted with the duties of an engineer to warrant the belief that he can safely be entrusted to perform such duty. Whenever complaint is made against an engineer holding a license from a State Inspector that he has, through negligence, want of skill or inattention to duty, permitted his boilers to burn

or otherwise become in bad condition, it shall be the duty of the inspector, upon satisfactory proof of such negligence, to revoke the license of such engineer; and no engineer shall run his engine longer than seven days without cleaning out the boiler under penalty of this act.

§ 12. LICENSE TO BE CONSPICUOUSLY POSTED.] An engineer running a stationary engine, shall keep his license in a public place in the engine room, which license shall be subject to inspection by any inspector or other public official. Engineers running or operating boilers and engines other than stationary ones, shall keep their certificates with them and subject to examination by any inspector, public official, or other person interested therein. Any person operating a steam boiler or engine without a license as provided for by this act, or any person employing anyone to operate a steam boiler or engine, who does not have a certificate as provided in this act, shall be guilty of a misdemeanor and fined not to exceed two hundred (200) dollars, or imprisoned in county jail not to exceed one year, or both such fine and imprisonment, as the court may deem advisable. The license of chief and assistant engineers shall be good for the time issued in any part of the State, but special licenses shall be good only in the judicial district where granted, and in case of removal to another district a new license must be taken out in said district, and a failure or neglect so to do will incur the penalty in Paragraph 2 of this section.

§ 13. INSPECTORS MAY ACT JOINTLY.] In making the inspection of boilers, machinery or steam vessels herein provided for, the inspectors may act jointly or separately, but the inspector or inspectors making such inspection shall, in all cases, subscribe and make an oath to the certificate of inspection; any inspector who shall willfully certify falsely regarding any steam boiler or its attachments, or the hull and equipments of any steam vessel, or grant license to incompetent persons to act as engineers, or grant a license to any person better than the grade he should have shall, on conviction thereof, be punished by a fine not exceeding five hundred (500) dollars, or imprisonment not exceeding one year in the State prison, or both, at the discretion of the court.

§ 14. FEES FOR INSPECTION.] Each inspector shall be authorized to charge a fee of four (4) dollars for the inspection of each single boiler and its steam connections, within his district, and two (2) dollars for each additional boiler, when connected, said fee being payable at the time of the delivery of the inspector's certificate of approval. The fee for the examination of engineers and for the issuing of a license certificate shall be two (2) dollars, and for the annual renewal of the same fifty (50) cents, said amounts to be the property of the inspector, who shall receive no other compensation for his services.

§ 15. RAILROAD LOCOMOTIVES EXEMPT.] This act shall not apply to railroad locomotives, nor to boilers owned or controlled

by railway companies, unless used upon steam vessels navigating the inland waters of the State; nor shall engineers employed by railroad companies be required to procure licenses from the State Board of Inspectors, but the penalties herein provided for shall not obtain in any case prior to the time the inspector or inspectors have notified the persons affected that they are ready to make inspection as herein provided for.

§ 16. INSPECTOR NOT TO ACT AS AGENT.] No inspector shall act as agent for any machinery manufacturer in the sale of machinery, under penalty of removal by the Governor.

§ 17. REPEAL.] All acts or parts of acts inconsistent with this act are hereby repealed.

§ 18. EMERGENCY.] Whereas, an emergency exists in that boilers should be inspected previous to July 1st, therefore, this act shall take effect and be in force immediately after its passage and approval.

Approved January 22, 1890.

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## BONDS.

### CHAPTER 28

[S. F. 57.]

#### PROVIDING FOR ISSUE OF NORTH DAKOTA REVENUE BONDS.

AN ACT to Provide for Borrowing Money to Defray the Extraordinary Expenditures of the State Government.

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

§ 1. BONDS, HOW ISSUED.] 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 \$200,000; such bonds shall be made payable to the purchaser or bearer and payable in fifteen years from date of issue, and shall bear interest at a rate not to exceed four and one-half per cent. per annum, interest payable semi-annually on the first day of January and July of 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 at least thirty days 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. INTEREST FUND TAX.] 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. TREASURER TO PAY.] 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. RESIDUE TO BE TURNED INTO GENERAL 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 MAY BE ISSUED.] 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. STYLE OF BONDS.] Said bonds to be known and styled "North Dakota Revenue Bonds," which shall be of denominations of not less than \$1,000 each.

§ 8. EMERGENCY.] Whereas, an emergency exists in this, that there is no provision of law by which the extraordinary expenditures of the State can be met; therefore, for the reasons stated, this act shall take effect and be in force from and after its passage and approval.

Approved March 11, 1890.

## CHAPTER 29.

[H. F. 19.]

PROVIDING FOR REFUNDING OUTSTANDING BONDS OF THE STATE.

AN ACT Providing for Refunding the Outstanding Bonds of the State of North Dakota.

*Be it Enacted by the Legislative Assembly of the State of North Dakota.*

§ 1. BONDS, HOW ISSUED—RATE OF INTEREST.] That in order to provide for refunding as far as possible, at a lower rate of interest, all the outstanding bonds, the payment of which has been assumed by the State of North Dakota, under the provisions of the report of the Joint Commission, which was approved by the people of North and South Dakota, the Treasurer of the State is hereby authorized and empowered, and it is made his duty to prepare for issue the negotiable bonds of the State of North Dakota, for such amounts as shall be necessary to refund all the outstanding bonds subject to the call of the State, or soon to become subject to such call; and also for such amounts as shall be necessary to refund all the other outstanding bonds possible, whenever the rate of interest can be reduced, in accordance with the provisions of this act. Such bonds shall be made payable to the purchaser or bearer, payable in not less than ten nor more than thirty years from the date of their issue, and shall bear interest at a rate not to exceed four per cent. per annum, payable semi-annually, on the first day of January and July of each year, with coupons attached for each interest payment, and they may 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 negotiable by the Treasurer.

§ 2. EXCHANGE OR SALE.] Said bonds may be exchanged by the State Treasurer, at not less than their par value for an equal amount of the bonds of the State permitted to be refunded under the provisions of this act; or said bonds may be sold by him, at the highest cash price possible, not less than par, and the proceeds applied solely to the payment of said outstanding bonds. If said bonds or any part thereof are to be sold for cash, as provided in this section, the State Treasurer shall receive sealed proposals for the purchase of the same, and he shall give public notice, for at least thirty days, 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 said bonds shall be sold to the highest bidder for cash.

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§ 3. TAX.] The State Board of Equalization at the time the other taxes are levied shall levy a sufficient tax annually to pay the interest on such bonds as the same shall become due, which tax shall be collected in the same manner that other State taxes are collected. Also, a reasonable time 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 produce such fund. No tax or fund provided for the payment of such bonds or interest thereon shall be used for any other purpose.

§ 4. TREASURER TO PAY.] When the interest coupons attached to said bonds become due and whenever any of said bonds mature it shall be the duty of the State Treasurer to pay the same on presentation, out of any funds in his hands applicable thereto, and to cancel them when paid. Whenever any of said bonds become subject to the call of the State and funds are in the hands of the Treasurer to be applied to the payment thereof, he shall call in for payment and cancellation such portion of the same as he may have funds to pay; and, if to the advantage of the State he may purchase any of said bonds at their market value and retire and cancel the same, with the sinking fund tax, as the same shall be collected and received by him.

§ 5. APPROPRIATION.] There is hereby appropriated out of the State Treasury all of the funds realized by the sale of the bonds provided for in this act for the purposes in this act provided.

§ 6. EMERGENCY.] That a portion of the bonds proposed to be refunded by this act being now subject to call and there being no funds provided for the payment or refunding thereof, and it being necessary for an economical administration of the finances of the State that this act take effect and become operative immediately, an emergency exists; therefore this act shall take effect and be in force immediately from and after its passage and approval.

Approved February 17, 1890.



## CHAPTER 30.

[H. F. 96.]

## AUTHORIZING FUNDING OF COUNTY INDEBTEDNESS.

AN ACT Authorizing Counties to Fund Outstanding Indebtedness, and Adjust Disputed Claims; to Issue and Dispose of Bonds, and to Provide for the Payment of the Principal and Interest thereof.

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

§ 1. BONDS, HOW ISSUED—DISPUTED CLAIMS, ETC.] Each and every organized county in this State is hereby authorized and empowered by and through its board of county commissioners, or in counties adopting the township supervisor plan, through the chairman of the several township boards and such others as may be by law provided for incorporated cities, towns or villages, when in the judgment of said board it is deemed to [be] to the best interests of the county, to issue its negotiable bonds in the name of said county corporation, for the sole purpose of funding or refunding the outstanding indebtedness of such county, represented by the county warrants, bonds or orders of such county; or for the purpose of funding and paying claims against such county which have heretofore been disputed, but which may have been or may hereafter be adjusted and allowed by said board; or for the purpose of paying any final judgment which may have been rendered against such county; *Provided*, That the board in making settlement of disputed claims shall not allow interest at a greater rate than seven per cent. per annum; *Provided, however*, No county shall in any event issue its bonds in any amount, which with its prior bonded indebtedness will exceed the maximum indebtedness allowed by law; and, *Provided, however*, That the issuing of new bonds in lieu of outstanding bonds or indebtedness shall not be considered as the creation of a new debt.

§ 2. APPEAL IN DISPUTED CLAIMS.] Whenever any disputed or litigated claim shall have been adjusted and determined by said board, an appeal may be taken from said settlement in the manner and within the time now allowed by law, to the district court in and for said county; and no bonds shall be issued as hereinafter provided until the expiration of the period allowed by law within which said appeal may be taken.

§ 3. INTEREST.] Said bonds shall be in denomination of not less than one hundred (100) dollars nor more than \$1,000, shall bear the date of their issue, and shall be made payable to the order of the purchaser, in no [not] less than five nor more than

twenty years from their date, and bear interest not to exceed six per cent, per annum, payable semi-annually, with coupons attached for each interest installment; said bonds and coupons shall be signed by the chairman of the board of county commissioners, or the chairman of the county board as the case may be, and shall be attested by the county clerk, or in counties having an auditor, by the county auditor. The seal of the county shall be affixed to each bond, but not to the coupons. Said bonds shall be printed, lithographed, or engraved on good bond paper, and each bond shall state on its face that it is issued in accordance with an act of the Legislative Assembly of the State of North Dakota, entitled "an act authorizing counties to fund outstanding indebtedness, and adjust disputed claims; to issue and dispose of bonds, and to provide for the payment of the principal and interest thereof," approved——1890, (here insert date of approval of this act), and a copy of this act shall be printed on the back of each bond. Said bonds may be made payable anywhere in the United States.

§ 4. BONDS IN EXCHANGE FOR OUTSTANDING INDEBTEDNESS.] Said bonds may be exchanged at par value for an equal amount of indebtedness of said county with the holder of such indebtedness, whether evidenced by county warrants, bonds or orders, judgment or adjusted claim; or said bonds may be sold by the board at not less than par value, and the proceeds applied solely to the payment of the indebtedness for which they were issued. A record of each bond so issued shall be kept by the county treasurer showing the number of each bond so issued, its date, amount, rate of interest, when and where payable, the amount received therefor, to whom sold, and how the proceeds were disposed of, and it shall be the duty of the county clerk or auditor to keep a duplicate account of the same.

§ 5. TAX.] The board of county commissioners or county board, as the case may be, shall levy each year upon the taxable property of the county a sufficient tax to pay the interest on said bonds as the same accrues, and a reasonable time before maturity a sufficient tax to provide a sinking fund for the payment of the bonds when they mature.

§ 6. COUNTY TREASURER TO PAY.] When said bonds and the coupons thereto attached mature, it shall be the duty of the county treasurer to pay the same on presentation, out of any funds in his hands applicable thereto; and he shall then cancel them by writing or stamping across the face of each coupon or bond the words: Paid this.....day of.....(inserting the date of the payment).

§ 7. COMMISSION.] The county treasurer shall be allowed a commission of one-fourth of one per cent. on the face value of said bonds for receiving and disbursing all funds arising from the sale or exchange of said bonds, and the commission herein provided for shall be in lieu of all other commissions allowed by law,

and shall be paid into the salary fund and be disposed of as is now provided by law.

§ 8. WHAT BONDS NEGOTIABLE.] Bonds issued in substantial conformity with this act shall in law be deemed negotiable.

§ 9. REPEAL.] That chapter 13 of the session laws of 1887, and all acts and parts of acts in conflict with this act are hereby repealed.

Approved March 17, 1890.

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## CHAPTER 31.

[S. F. 85.]

### LIMITING ISSUE OF COUNTY BONDS.

AN ACT Amending Chapter 42 of the General Laws of the Eighteenth Session of the Legislative Assembly of the Territory of Dakota, Entitled "An Act Authorizing and Empowering Organized Counties of Dakota to Erect County Buildings for Court Houses and Jail Purposes, and to Issue and Dispose of Bonds to Provide Funds to Pay Therefor, and to Provide for the Payment of Principal and Interest of Such Bonds."

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

§ 1. AMENDMENT.] That Section 2 of Chapter 42 of the General Laws of the Eighteenth Session of the Legislative Assembly of Territory of Dakota be amended to read as follows:

"Sec. 2. No county shall issue its bonds under the provisions of this act in excess of five per cent. of its valuation according to the last assessment thereof, and including all the outstanding indebtedness of such county at the time of issuing such bonds."

§ 2. EMERGENCY.] Whereas, an emergency exists in that it is important that the limit of indebtedness fixed in said Chapter 42 be in accord with the provisions of Section 183 of the Constitution, therefore, this act shall take effect from and after its passage and approval.

Approved February 26, 1890.

## CHAPTER 32.

[S. F. 198.]

## DEPOSITORY FOR BONDS OF STATE OFFICERS.

AN ACT to Require the Secretary of State to Keep a Record of Bonds of the State Officers and to regulate the Depository of the Bonds of all the State Officers of the State of North Dakota.

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

§ 1. BOND RECORD.] That the Secretary of State be required and it is hereby made the duty of said Secretary of State to keep a book in which shall be made a correct copy of the bonds of each and all the State officers, either elected or appointed or that may hereafter be elected or appointed, who are or may be required by law to execute a bond to the State, and said book shall be called the bond record.

§ 2. BONDS WHERE FILED.] The bonds of the several State officers as referred to in Section 1 of this act, shall be deposited with and kept on file in the office of the State Auditor; except that the bond of such State Auditor shall be deposited with and kept on file in the office of the Secretary of State. Said State Auditor and Secretary of State on receipt of such bond or bonds, shall issue a receipt therefor and such receipt shall be filed in the office of the State Treasurer.

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

§ 4. EMERGENCY.] Inasmuch as there is no adequate law for the government of the depository of bonds, an emergency exists and this act shall take effect and be in force from and after its passage and approval.

Approved March 20, 1890.

## CHAPTER 33.

[S. F. 228.]

## CERTAIN BONDS INVALID.

**AN ACT Making Invalid Bonds or Other Evidences of Debt of Counties and Bonds of Townships and Other Political Corporations, Unless the Same Have Endorsed Thereon a Certificate Showing Legality of Issue, and Designating the Proper Officer for Making such Certificate.**

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

§ 1. BONDS AND EVIDENCES OF DEBT, WHEN INVALID.] No bond or evidence of debt of any county, or bond of any township or other political subdivision of this State shall be valid unless the same have endorsed thereon a certificate stating that said bond or evidence of debt is issued pursuant to law and is within the debt limit, which certificate in the case of a county shall be signed by the county auditor or county clerk, and in the case of a township or other political subdivision shall be signed by the treasurer of such township or other political subdivision.

§ 2. EMERGENCY.] Whereas, an emergency exists in that there is now no law fully carrying into effect the provisions of Section 187 of the Constitution; therefore, this act shall take effect from and after its passage and approval.

Approved March 20, 1890.

# BOUNTIES.

## CHAPTER 34.

[H. F. 335.]

### BOUNTY FOR MANUFACTURE OF BINDING TWINE.

AN ACT to Encourage the Manufacture of Binding Twine in the State of North Dakota.

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

§ 1. BOUNTY.] All persons, companies or corporations formed or that may be formed in the State of North Dakota for the purpose of manufacturing binding twine from material grown within the State, suitable for binding grain, or any and all individuals engaged or that may be engaged in such manufacture in this State, shall be entitled to receive the bounty offered in Section 2 of this act.

§ 2. APPROPRIATION.] There shall be paid from the State Treasury as bounty to any individual, company or corporation the sum of two (2) dollars for each and every 100 pounds of binding twine manufactured by said individual, company or corporation in this State, suitable for binding grain, and said bounty shall be paid upon each year's results for the term of five years from the first day of July, 1890, to all individuals, companies or corporations entitled to the same under the provisions of this act; *Provided*, That the individual, company or corporation receiving such bounty shall make a report to the Commissioner of Agriculture and Labor stating the number of pounds of binding twine manufactured under the provisions of this act, which report shall be duly verified and sworn to.

Approved March 20, 1890.

## CHAPTER 35.

[H. F. 232.]

## TO ENCOURAGE MANUFACTURE OF BEET SUGAR.

AN ACT to Encourage the Culture of Sugar Beet in this State and the Manufacture of Sugar from the Same.

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

§ 1. WHO ENTITLED.] That all companies or corporations within the State of North Dakota formed or that may be formed for the purpose of cultivating and growing sugar beets and the manufacturing of sugar from the same, and any and all individuals, companies or corporations engaged or that may be engaged in such culture and manufacture shall be entitled and subject to the provisions of this act.

§ 2. REPORTS TO COMMISSIONER OF AGRICULTURE AND LABOR.] That the Commissioner of Agriculture and Labor shall receive reports of results and the process by which such results are obtained in the culture of sugar beets and the manufacture of sugar from the same, and report the same in full to the Governor and he shall incorporate the same in his annual report.

§ 3. BOUNTY.] There shall be paid from the Treasury of the State as bounty to any individual company or corporation within the State of North Dakota, upon the report and determination of the Commissioner of Agriculture and Labor the sum of two (2) cents per pound for each and every pound of merchantable sugar manufactured by said individual, company or corporation in this State, from sugar beets grown therein; and said bounty shall be paid upon each year's results for the term of five years from the first day of January, 1890, to all individuals, companies and corporations entitled to the same under the provisions of this act; *Provided*, That the person receiving such bounty shall make a report to the Commissioner of Agriculture and Labor duly verified, of all the parts of the process employed in the manufacture of such sugar, together with a definite statement of the yield.

Approved March 17, 1890.

## CHAPTER 36.

[H. F. 249.]

## TO ENCOURAGE THE MANUFACTURE OF STARCH.

AN ACT to Encourage the Manufacture of Potato Starch in the State of North Dakota.

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

§ 1. WHO ENTITLED.] All persons, companies or corporations formed or that may be formed in the State of North Dakota for the purpose of manufacturing starch from potatoes grown in the State of North Dakota, or any and all individuals engaged or that may be engaged in such manufacture in this State shall be entitled to receive the bounty offered in Section 2 of this act.

§ 2. BOUNTY.] There shall be paid from the State Treasury as bounty to any individual, company or corporation the sum of one (1) dollar for each and every 100 pounds of starch manufactured by said individual, company or corporation in this State from potatoes grown therein, and said bounty shall be paid upon each year's results for the term of five years from the first day of September, 1890, to all individuals, companies or corporations entitled to the same under the provisions of this act; *Provided*, That the individual, company or corporation receiving such bounty shall make a report to the Commissioner of Agriculture and Labor, stating the number of pounds of starch manufactured under the provisions of this act which report shall be duly verified and sworn to.

Approved March 14, 1890.



# BRANDS AND EARMARKS.

## CHAPTER 37.

[S. F. 166.]

### RELATING TO BRANDS ON DOMESTIC ANIMALS.

AN ACT Entitled "An Act Relating to the Use of Brands and Earmarks on Domestic Animals and Live Stock, and Repealing Chapter 61 of the Session Laws of 1881."

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

§ 1. EXCLUSIVE RIGHTS.] Any person or persons, partnership, association or corporation, having cattle, hogs, sheep, horses, mules or asses, shall have the right to adopt a brand or earmark, for the use of which he or they shall have the sole and exclusive right, in the State of North Dakota, when a certificate, signed by the parties desiring to adopt such brand or earmark, or by the officer managing such association or corporation, shall have been filed for record in the office of the Secretary of State, of the said State of North Dakota, and such certificate shall set forth a *fac simile* and description of the brand or earmark, which the parties desire to use, and shall also state the different counties in which the parties desire to have the said brand or earmark recorded.

§ 2. RECORD—FEES.] It is hereby made the duty of the Secretary of State of the State of North Dakota, to procure two suitable books, one to be known as the "brand record," and the other as the "earmark record," in which he shall record all brands and earmarks that may be filed for record in his office; and he shall receive a fee of three (3) dollars for his services, for every brand or earmark, so filed and recorded as aforesaid, together with one (1) dollar for each register of deeds in each county in which such brands or earmark is to be recorded.

§ 3. BRAND TO BE RECORDED BY REGISTER OF DEEDS.] Upon the filing of the certificate of brand or earmark, and the payment of the fees specified in the foregoing section it shall be the duty of the Secretary of State to cause the said certificate to be recorded in the proper record book, and to immediately transmit a certified copy of such certificate to the register of deeds of each county in which the same is to be recorded, together with one (1) dollar, the register of deed's fee for recording the same, and when the county in which such domestic animals or live stock may be situated is an unorganized county, then to the register of deeds of the

county to which the said unorganized county may be attached for judicial purposes.

§ 4. SIMILAR BRANDS PROHIBITED.] No person or persons, partnership, association or corporation shall have or adopt a brand or earmark, previously recorded to another person or persons, partnership, association or corporation of this State, neither shall the Secretary of State record the same brand or earmark, or one similar thereto, to more than one person or party.

§ 5. WHAT CONSTITUTES TRUE BRAND.] It shall be the duty of the Secretary of State to decide as to the conflict of brands or earmarks, to reject any one that, being the same as one previously recorded, has in addition any of the following, whether placed across, above, below, at either side or encircling the main brand or earmark, viz: A straight bar; a quarter half or entire circle; a quarter, half, or entire diamond, either upright or inverted, the same not constituting a true brand and rendering the owner of the same brand liable to damages for its use, saving only where one or more of them shall be filed by the owner of the first record of the main brand, in which case it may be accepted. The Secretary of State shall reject any brand or earmark formed by repetition of any device, letter, number or figure which shall have been previously recorded in his office, whether to be placed on the same, or on a different part of the animal; the exclusive right of the first record to the device, letter, number, or figure, and to repetition of it being reaffirmed. He shall also reject all brands known as solid brands, and all earmarks which shall remove to exceed one-half of the ear. A variation in the size of a device, letter, number, or figure shall not constitute a new brand or earmark, and shall be rejected. A combination of letters, numbers, or figures, may be permitted, though the same letters, numbers or figures, may have been recorded, single or together, if in the judgment of the Secretary of State said combination is so different from any previous record, as to constitute a new brand, with no danger of infringement.

§ 6. BRANDS TO BE PROCURED BEFORE LAWFUL TO TURN STOCK LOOSE.] It shall be the duty of any person or persons, partnership, association or corporation, who after the passage of this act, brings into this State, and before turning loose for grazing purposes, any herd or individual animal already branded, to lay before the Secretary of State a statement of the brands or earmarks of said animals; and if in the judgment of the Secretary of State said brands or earmarks conflict with any previously recorded in his office, it shall be the duty of the owner or manager of said animals to brand or mark them with a brand or earmark, that the Secretary of State shall consider a full and distinguishing brand or earmark, from all brands or earmarks heretofore recorded in his office and the owner or manager of said animals shall be enjoined from any further use of the conflicting brand or earmark, and shall be required to file his certificate of the new brand or

earmark and have the same recorded as other brands and earmarks are recorded in the office of the Secretary of State. A failure to comply with the above shall render the party so failing, liable for all damages resulting from such failure, which damages may be recovered in a civil suit. It is further provided that this section shall apply to all animals now in this State whose brands or earmarks are considered by the Secretary of State to conflict or infringe on those previously recorded in his office.

§ 7. BRAND PRIMA FACIE EVIDENCE OF OWNERSHIP.] In all suits in law or in equity, or in any criminal proceedings, where the title to any domestic animals or live stock is involved, the brand or earmark on any animal shall be *prima facie* evidence of the ownership of the person whose brand or earmark it may be; *Provided*, That such brand or earmark has been duly recorded as provided herein. Proof of the right of any person to use such brand or earmark, shall be made by a copy of the record certified to by the Secretary of State or the register of deeds of any county where the said brand or earmark may be recorded, under the hand and seal of such officer.

§ 8. ESTRAYS TO BE NOTICED TO SECRETARY OF STATE.] It shall be the duty of any person taking up an estray animal that is branded or earmarked to notify the Secretary of State, by registered letter, of the time and place of the taking up of such animal, together with a description of the brand or earmark on the same, and it shall be the duty of the Secretary of State, if such brand or earmark has been recorded in his office, to notify the owner thereof of the taking up of such estray; and if such brand or earmark has not been recorded in the office of the Secretary of State, the said Secretary of State shall notify the party taking up such estray, that there is no such brand or earmark recorded in his office, the party may then proceed against said animal under the law on estrays.

§ 9. RUNNING BRAND PROHIBITED.] It shall be unlawful for any person or persons, partnership or association or corporation, in branding any domestic animals or live stock, to use what is known among stock growers as a running brand.

§ 10. PENALTY FOR FALSE REGISTER.] Any register of deeds of any county in this State, who shall record any brand or earmark, other than those duly transmitted to him by the Secretary of State, shall be deemed guilty of a misdemeanor, and upon conviction in any court of competent jurisdiction, shall be punished by a fine of not exceeding one hundred (100) dollars, which shall go to the school fund in the county in which such record shall have been made.

§ 11. PENALTY FOR VIOLATION OF ACT.] Any person or persons, partnership, association or corporation, who shall violate or fail to obey the provisions of this act, or shall continue the use of any brand or earmark, after the same has been rejected by the Secretary of State, or shall continue to use any brand or earmark,

after the said Secretary of State shall have decided that the same conflicts with a previously recorded brand or earmark, shall be deemed guilty of a misdemeanor and upon conviction in any court of competent jurisdiction, shall be punished by a fine of not exceeding \$1,000, or by imprisonment in the county jail for a term not exceeding one year, or by both such fine and imprisonment, in the discretion of the court.

§ 12. REPEAL.] That all laws or parts of laws, in conflict herewith are hereby repealed, and this act must be construed as repealing Chapter 61 of the Session Laws of 1881.

§ 13. WHAT BRANDS HAVE PRIOR RIGHT.] All brands or earmarks heretofore recorded in any county within this State shall have prior right in the order in which they are recorded in their respective counties; *Provided*, That such brands or earmarks shall be filed for record with the Secretary of State within four months after the taking effect of this act.

§ 14. 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 8, 1890.

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## BRIDGES.

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### CHAPTER 39.

[S. F. 118.]

COUNTY TO BUILD WHERE COST EXCEEDS ONE HUNDRED DOLLARS.

AN ACT Entitled "An Act Authorizing Counties to Build all Bridges Within the County Limits, Wherein the Cost of the Construction of Same Exceeds the Sum of One Hundred Dollars."

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

§ 1. PETITION—BIDS.] Whenever a majority of the freeholders of a civil township or a majority of freeholders living within a radius of three miles of the proposed location shall petition the board of county commissioners for a bridge at a specified location within said township, when the cost of said bridge will

exceed the sum of one hundred (100) dollars, it shall be the duty of the board of county commissioners to view and investigate the necessity of said proposed bridge; and if said county board approve its location and building, said county board of commissioners shall then proceed to advertise in the official paper of the county, for a period of thirty days, the plans and specifications of the proposed bridge, asking for sealed bids for the building of said bridge, to be submitted to them at their next regular or special meeting, at which meeting of the board the county board of commissioners shall proceed to examine all sealed proposals or bids for the building of said bridge, and shall award the building of said bridge to the lowest responsible bidder, requiring said bidder to give a good and sufficient bond, in a sum not less than the amount stipulated in the bid or contract, for the faithful construction of any bridge according to plans and specifications; said bond to be approved by a majority of said county board of commissioners and filed in the office of the county auditor.

§ 2. COST, HOW PAID.] The cost and expense of the construction of such bridge shall be paid for out of the county bridge fund, upon the warrants of the chairman of the board of county commissioners, if said bridge is accepted and approved by said board.

§ 3. SUPERVISION.] After any bridge built by the county according to the provisions of this act said bridge shall be under the supervision of the township board and all repairs not exceeding twenty-five (25) dollars shall be borne by the township or townships in which said bridge is located. All repairs exceeding twenty-five (25) dollars and less than one hundred (100) dollars shall be divided equally between the county and township or townships. All repairs exceeding one hundred (100) dollars shall be paid by the county.

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

Approved March 8, 1890.

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## CHAPTER 39.

[S. F. 212.]

### COUNTY TAX TO BE TURNED OVER TO CITIES IN CERTAIN CASES.

#### AN ACT Relating to Bridge Tax in Certain Cities or Municipalities.

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

§ 1. COUNTY TREASURER TO PAY OVER.] That from and after the passage of this act, it shall be the duty of the county treasurer of each and every county wherein any city or municipality

shall have constructed a bridge or bridges, or shall hereafter construct any bridge or bridges, over any navigable stream of water, to pay to the treasurer of such city or municipality, whereby such bridge or bridges have been constructed or is or are about to be constructed, all monies now in the hands of the county treasurer of said county, or hereafter to come into his hands in the bridge fund of said county, which shall have been or shall be levied, assessed and collected upon and from persons and property, or either, in said city or municipality.

§ 2. REPEAL.] All acts or parts of any act of the Territory of Dakota, in conflict herewith, are hereby repealed.

§ 3. EMERGENCY.] Whereas, an emergency exists in that certain cities have already constructed expensive bridges and require the taxes levied to pay the deficiency between the amount of bonds issued and the total cost of the bridges, this act shall take effect and be in force from and after its passage and approval.

Approved March 20, 1890.

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## CHATTEL MORTGAGES.

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### CHAPTER 40.

[H. F. 181.]

#### REGULATING SALE UNDER CHATTEL MORTGAGE.

AN ACT to Amend an Act Entitled "An Act to Give Publicity to Chattel Mortgage Sales," Approved March 8, 1889.

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

§ 1. AMENDMENT.] That Section 3 of an act entitled "An act to give publicity to chattel mortgage sales," approved March 8, 1889, be amended to read as follows:

"Sec. 3. PUBLIC PLACES.] The boards of county commissioners of the several counties shall, at their regular quarterly meetings in April and every year thereafter, designate not less than five public places in their respective counties, which shall be the only market places for the sale of chattels under the provisions of this act; *Provided*, That the mortgagor and mortgagee may at the time of seizure agree and designate in writing any other place in the county as the place of sale, which written notice or designation shall be delivered to the mortgagee or his agent, and shall be attached to and filed with the report of sale, and in case the mort-

gagor and mortgagee fail to agree upon a place of sale, then such sale shall be made at one of the places designated by the county boards; and, *Provided, further*, That growing or harvested crops, grain in bulk, or buildings may be sold under the provisions of this act without moving the same to the place of sale."

§ 2. That Section 8, of said act be amended to read as follows:  
 "Sec. 8. DISPOSITION OF PROCEEDS.] Out of the proceeds arising from the sale the officer making the sale shall pay first the costs and expenses of the foreclosure; second, shall pay the person or persons entitled thereto the amount of the mortgage debt and third shall pay the balance, if any there be, to the owner of the mortgaged property. And when any chattel mortgage shall have been paid in any manner, the mortgagee or person owning said mortgage shall cause the same to be released of record within sixty days after such payment shall be made, and any person refusing or neglecting for sixty days to release or cause said mortgage to be released, shall be subject to a penalty of ten (10) dollars, to be recovered in a civil action, and when collected the same shall be paid into the school fund. It shall be the duty of the state's attorney to sue for said penalty in the name of the State and to prosecute such action."

§ 3. EMERGENCY.] There being an emergency in this that there is no adequate existing law on this subject, therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 18, 1890.

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## CHAPTER 41.

[H. F. 247.]

### RENEWAL OF CHATTEL MORTGAGES.

AN ACT to Amend Section 1, Chapter 25, of the General Laws of 1881, Being Section 4383 of the Compiled Laws.

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

§ 1. WHEN MORTGAGE CEASES TO BE VALID.] That a mortgage of personal property shall, unless duly renewed as provided in Section 2 of this act, cease to be valid as against the original mortgagee and mortgagor, his heirs or assigns, and against any attaching or execution creditor of the mortgagor or any subsequent purchaser or mortgagor of the property, in good faith, whether the title of such purchaser shall vest, or the lien of such creditor or mortgagee shall attach, prior or subsequent to the expiration of

the three year period or periods in Section 2 of this act mentioned.

§ 2. RENEWAL EVERY THREE YEARS.] In order to preserve and continue its priority of lien, every chattel mortgage must, not less than ten or more than thirty days immediately preceding the expiration of three years from the date of the filing thereof, be renewed by the filing in the office of the register of deeds of the proper county, of a copy of such mortgage, together with a statement of the amount or balance of the mortgage debt for which a lien is still claimed, duly subscribed and sworn to by the then owner of the mortgage, his agent or attorney; and in like manner the copy and statement of debt must be again filed every three years, or the mortgage shall cease to be valid as against the parties in Section 1 of this act mentioned.

§ 3. EMERGENCY.] That there exists a difference of opinion and a doubt as to the meaning and interpretation of the existing laws relating to the renewal of chattel mortgages; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 20, 1890.

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## CIVIL TOWNSHIPS.

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### CHAPTER 42.

[S. F. 9.]

#### CERTIFICATES OF ROAD WORK RECEIVABLE FOR CERTAIN TAXES.

AN ACT to Amend Sections 16 and 18 of Subchapter 2 of Chapter 112 of the General Laws of 1883, of the Territory of Dakota, Entitled "An Act to Provide for the Organization of Civil Townships and the Government of the Same."

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

§ 1. MAY PAY CERTAIN TAXES BY ROAD WORK.] That Section 16 of Subchapter 2 of Chapter 112 of the General Laws of 1883 of the Territory of Dakota, is hereby amended by adding at the end of said section the following words: "If any person shall have done any road work under the direction of the road overseer, such person shall be entitled on demand to a receipt from said overseer, which receipt shall state in dollars and cents the value of such labor and the name of the person, when assessment is against



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personal property, and the description of the land, when assessment is against real property. The said receipt shall be received by the county treasurer or road overseer in payment of any road or bridge tax levied and assessed in that or any succeeding year in said township against said person or land. If from any cause the amount stated in said receipt shall exceed the amount of the tax then due, the county treasurer or the road overseer shall accept and retain said receipt, and shall give to the owner of said receipt, another receipt for the amount of the excess of the original receipt over and above the said tax. Such other receipt shall be received in payment of taxes to the amount stated therein, in the same manner as the said original receipt."

Approved February 26, 1890.

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## CHAPTER 43.

[S. F. 129.]

### TO RAISE TAX FOR IRRIGATION PURPOSES.

AN ACT to Allow Organized Townships to Raise a Tax for Irrigation Purposes.

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

§ 1. PETITION—ELECTION, WHEN ORDERED.] Whenever ten legal voters of any organized township petition the town board fifteen days previous to any annual town meeting to submit the question of irrigation, by building dams to create ponds or reservoirs on any of the creeks or coulies in said township, it shall be the duty of said town board to submit the question to the voters at the next annual town meeting, and the town clerk shall cause three notices to be posted specifying the place and nature of said improvements.

§ 2. TAX.] Whenever two-thirds of the legal voters of any organized town in this State, at their annual town meeting agree that it is advisable and for the public good that certain specified creeks or coulies should be improved to increase the water supply and for the purpose of irrigation, it shall be lawful for such voters to levy a tax upon said town, to be expended in building dams to create ponds and reservoirs, by and under the direction of the board of supervisors of said town; *Provided*, Such improvements shall be wholly in said town; *Provided, further*, That no lands shall be flooded without the consent of the owner or without a just compensation therefor, which compensation shall be determined by arbitration.

§ 3. **MAXIMUM LEVY.**] The tax authorized to be levied by Section 1, shall not exceed two (2) mills on the dollar of assessed valuation of said town.

§ 4. **EMERGENCY.**] There being an emergency existing by reason of the fact that the annual town meetings are held in March of each year, this act shall take effect and be in force from and after its passage and approval.

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

Approved February 11, 1890.

## CHAPTER 44.

[S. F. 125.]

### RELATING TO TOWNSHIPS HERETOFORE ILLEGALLY ORGANIZED.

#### AN ACT Providing for the Collection of Assets and Payment of Liabilities of Civil Townships Heretofore Illegally Organized.

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

§ 1. **ILLEGAL TOWNSHIP ORGANIZATION, HOW REMEDIED.**] That in all cases where a township organization was heretofore in good faith attempted, and supposed to be legally effected, under the provisions of Chapter 112 of the acts of the Fifteenth Session of the Legislative Assembly of the Territory of Dakota and the amendments thereto, but afterwards found to be illegal and void; and where a legal organization has since been effected embracing substantially the same territory as the former organization, it shall be lawful for the board of supervisors of such new township to take possession of and hold for the benefit of such new township, all books, papers, records, and all property real and personal of whatsoever name and nature that belonged to the former organization; and to adjust, compromise, settle or pay the outstanding indebtedness of such former township organizations, for such amounts and upon such terms as such township board may deem just and equitable; and to that end may issue bonds or other evidences of indebtedness in the name of the town of which they are officers, in payment of such adjusted claims and debts not exceeding in amount, nor drawing a higher rate of interest than such original debt, and in no event exceeding the limit fixed by law.

§ 2. **REPEAL.**] All acts or parts of acts, in conflict herewith are hereby repealed.

§ 3. **EMERGENCY.**] Whereas, there is an emergency existing in that there is no adequate existing law on this subject, this act shall take effect from and after the date of its passage and approval.

Approved March 7, 1890.

## CHAPTER 45.

[H. F. 129.]

## REPEALING ACT ALLOWING TOWN SUPERVISORS TO ISSUE BONDS.

AN ACT to Repeal Chapter 144 of the Session Laws of 1885, Entitled "An Act Allowing Town Supervisors to Issue Bonds."

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

§ 1. REPEAL.] That chapter 144 of the Session Laws of 1885, entitled "An act allowing town supervisors to issue bonds, approved March 13, 1875," [1885,] be and the same is hereby repealed.

Approved March 6, 1890.

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## COMMISSIONER OF AGRICULTURE AND LABOR.

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## CHAPTER 46.

[H. F. 206.]

DEFINING THE DUTIES OF THE COMMISSIONER OF AGRICULTURE  
AND LABOR.

AN ACT Defining the Duties of the Commissioner of Agriculture and Labor, and Providing that Until Otherwise Provided by Law, he shall be Ex-officio State Dairy Commissioner.

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

§ 1. GENERAL DUTIES—STATISTICS TO BE OBTAINED.] The duties of the Commissioner of Agriculture and Labor shall be to collect, systemitize and present in biennial reports to the Legislative Assembly, statistical details relating to all departments of labor in the State, such as the hours and wages of labor, cost of living, amount of labor required, estimated number of persons depending on daily labor for their support, the estimated number of

persons employed by the several industries within the State, the operation of labor saving machinery in its relation to hand labor, etc. Said statistics may be classified as follows:

First. In agriculture.

Second. In mining.

Third. In mechanical and manufacturing industries.

Fourth. In transportation.

Fifth. In clerical and all other skilled and unskilled labor not above mentioned.

Sixth. The amount of cash capital invested in lands, in building and machinery, severally, and means of production and distribution generally.

Seventh. The number, age, sex and condition of persons employed; the nature of their employment, the extent to which the apprenticeship system prevails in the various skilled industries, the number of hours of labor per day, the average length of time employed per annum, and the net wages received in each of the industries and employments within the State.

Eighth. The number and condition of the unemployed, their age, sex and nationality, together with the cause of their idleness.

Ninth. The sanitary condition of lands, workshops, dwellings; the number and size of rooms occupied by the workers, etc.; the cost of fuel, rent, food, clothing and water in each locality of the State; also the extent to which labor saving processes are employed to the displacement of hand labor.

Tenth. The number and condition of the Chinese in the State, their social and sanitary habits, number of married and of single, the number employed and the nature of their employment; the average wages per day at each employment, and the gross amount yearly; the amount expended by them in rent, food and clothing and in what proportion such amounts are expended for foreign and home productions respectively; to what extent their labor comes in competition with the other industrial classes of the State.

Eleventh. The number, condition, and nature of the employment of the inmates of the State prison, county jails, and reformatory institutions, and to what extent their employment comes in competition with the labor of mechanics, artisans and laborers outside of these institutions.

Twelfth. All such other information in relation to labor as the commissioner may deem essential to further the objects sought to be attained by this statute.

Thirteenth. A description of the different kinds of labor organizations in existence in the State, and what they accomplish in favor of the class for which they were organized.

§ 2. INFORMATION TO BE FURNISHED.] 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. And not

more than 1,000 copies of the printed report shall be furnished to the commissioner for free distribution to the public.

§ 3. PENALTY.] 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) nor more than fifty (50) dollars, or imprisonment not less than seven nor more than thirty days in the county jail, or both.

§ 4. OFFICE HOURS.] The office of the commissioner shall be open for business from 9 o'clock a. m. until 5 o'clock p. m. every day, except non-judicial days, and the officers thereof shall give to all persons requesting it, all needed information which they may possess.

§ 5. POWER TO SEND FOR PERSONS AND EXAMINE WITNESSES.] The commissioner shall have power to send for persons whenever, in his opinion, it is necessary, and he may examine witnesses under oath, being hereby authorized to administer the same in the performance of his duty, and the testimony so taken must be filed and preserved in the office of said commissioner.

§ 6. OFFICE.] The Secretary of State shall provide a suitable office for said commissioner, properly furnished.

§ 7. MEDIATE IN CASE OF STRIKES AND LOCKOUTS.] If any difference shall arise between any corporation or person, employing twenty-five or more employes, and such employes, threatening to result, or resulting in a strike on the part of such employes, or a lockout on the part of such employer, it shall be the duty of the commissioner, when requested so to do by fifteen or more of said employes, or by the employers, to visit the place of such disturbance and diligently seek to mediate between such employer and employes.

§ 8. IMMIGRATION.] It shall be the duty of the commissioner to look after and devise means to advance the immigration interests of the State, and to encourage and promote the permanent settlement and improvement of all sections of the State. He shall have charge of the preparation in manuscript, the publication and the distribution by mail and otherwise of any and all documents and articles of reading matter designed to convey correct and full information on all matters pertaining to the growth and development of the agricultural, manufacturing, commercial and mining interest of the State. He shall attend to all correspondence relating to immigration and shall do all in his power by letter, by the use of published printed matter and through personal efforts to secure the most liberal and extensive advertisement of the resources and opportunities of the State. It shall be his aim to induce the investment of capital in agriculture, in mining, and in different industrial and merchantile pursuits, and to facilitate the coming to the State of persons and families seeking permanent location for new homes. It shall be the duty of the commissioner to procure the most favorable rates of fare obtainable from rail-

road and other transportation companies for persons coming to the State, and where such persons have formed a colony or party of considerable numbers he shall be required to visit them, if necessary, and do all in his power to direct and assist them in making the necessary arrangements for transportation and in reaching the State.

§ 9. HAVE CHARGE OF PUBLIC EXHIBITS.] The commissioner shall have charge of any exhibit of the products and resources of the State which may be made at any fair or exhibition held at any point in the United States, and shall have authority to co-operate with any railroad company or companies doing business in the State and with any other parties interested with the view of securing such exhibit at any fair or exposition held as aforesaid.

§ 10. STATE'S STATISTICIAN.] The commissioner shall be the State's 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.

§ 11. REPORT TO LEGISLATURE.] 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 to coal miners, and the cost per ton to mine coal at the different mines.

§ 12. EX-OFFICIO DAIRY COMMISSIONER.] That until otherwise provided by law the Commissioner of Agriculture and Labor shall be *ex-officio* State Dairy Commissioner.

§ 13. REPEAL.] That Chapter 66 of the General Laws of the Territory of Dakota, entitled "An act creating the office of Commissioner of Immigration and for the appointment of a Commissioner of Immigration for the Territory of Dakota," approved March 11, 1885, and all acts amending the same be and the same are hereby repealed.

§ 14. EMERGENCY.] An emergency exists in this, that there is no law defining the duties of the Commissioner of Agriculture and Labor, therefore this act shall take effect and be in force from and after its passage and approval.

Approved February 17, 1890.

## CHAPTER 47.

[H. F. 343.]

## APPROPRIATION FOR SALARY OF COMMISSIONER OF AGRICULTURE AND LABOR.

AN ACT Fixing the Salary of the Commissioner of Agriculture and Labor.

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

§ 1. SALARY.] The Commissioner of Agriculture and Labor shall receive an annual salary of \$1,800 until such time as the salary of all State officers is readjusted.

§ 2. EMERGENCY.] An emergency existing in that no salary is fixed by law for the Commissioner of Agriculture and Labor, this act shall take effect immediately after its passage and approval.

Approved March 20, 1890.

## COUNTY COMMISSIONERS.

## CHAPTER 48.

[H. F. 78.]

## REGULATING NUMBER OF COUNTY COMMISSIONERS.

AN ACT to Enable Counties to Regulate the Number of County Commissioners.

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

§ 1. COMMISSIONERS SHALL CALL AN ELECTION.] That the number of county commissioners of any county within this State may be increased to five or reduced to three whenever legal voters of said county equal to one-third of the number of legal votes cast at the last preceding general election petition the board of county commissioners to call an election for determining the number of commissioners which shall constitute such county board, it shall be the duty of the commissioners to call a special election and submit the question to vote. Notice of such election shall be given by publication in the official newspaper of the county, or

by posting notice, for a period of at least twenty days. Such election shall be held not less than sixty days prior to a general election. If the question be for an increase to five commissioners, the proposition shall be submitted in this form:

“For Five Commissioners.”

“Against Five Commissioners.”

If it be for a reduction to three, the proposition shall be in this form:

“For Three Commissioners.”

“Against Three Commissioners.”

The returns of such election shall be canvassed by the board of county commissioners within one week after said election.

§ 2. DISTRICTS.] When the returns of such election show a majority of all the legal votes cast to be for an increase from three to five, it shall then be the duty of the board of county commissioners to proceed within ten days after the vote has been canvassed, to divide the county into five districts. The districts shall be numbered from one to five, those last created being designated fourth and fifth, respectively. At the ensuing general election commissioners for such additional districts shall be elected—the commissioners in the fourth district for two years and the commissioners in the fifth district for three years; thereafter they shall hold their terms of office for three years. The tenure of office of the existing board of county commissioners shall not be affected. The district which each commissioner shall represent shall be designated by said board. When the special election results in a majority for a decrease from five to three, the existing county board shall at the end of the first two expiring terms of the same year declare such districts vacant, and at their first regular meeting thereafter proceed to divide the county into three commissioner districts, and in such division designate the district which each of the three remaining commissioners shall represent.

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

Approved March 6, 1890.



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# CORPORATION HEADQUARTERS.

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## CHAPTER 49.

[S. F. 161.]

### PROVIDING MANNER OF CHANGE OF HEADQUARTERS OF CORPORATIONS.

AN ACT Authorizing a Private Corporation to Change the Place Where Its Principal Business is to be Transacted.

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

§ 1. HEADQUARTERS HOW CHANGED.] Every private corporation created and existing, or which may hereafter be created, under and by virtue of the laws of the Territory of Dakota, now State of North Dakota, may change the place where its principal business is to be transacted, at a meeting called for that purpose by the directors, as follows:

First. Notice of the time and place of the meeting, stating its object, must be personally served upon each stockholder or member at his place of residence, if known, and if not known at the place where the principal office of the corporation is situated, and be published in a newspaper published in the county of such principal place of business, once a week for four weeks, consecutively immediately prior to the time of such meeting.

Second. At least two-thirds of the entire capital stock must be represented by the vote in favor of the change of the place where the principal business of the corporation is to be transacted.

Third. A certificate must be signed by the chairman and secretary of the meeting, and a majority of the directors, showing a compliance with the requirements of this act, the place to which the place where the principal business of the corporation is to be transacted has been changed, the amount of stock or the number of the members represented at the meeting, and the vote by which the object was accomplished.

Fourth. The certificate must be filed in the office of the Secretary of State, there to be recorded in the book of corporations, and thereupon the place where the principal business of the corporation is to be transacted will be so changed.

Fifth. The written assent of the holders of three-fourths of the subscribed capital stock shall be as effectual to authorize the

change of the place where the principal business of the corporation is to be transacted as if a meeting were called and held; and upon such written assent the directors may proceed to make the certificate herein provided for.

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

Approved March 7, 1890.

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## COUNTY COURTS.

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### CHAPTER 50.

[H. F. 11]

#### COMPENSATION OF JUDGES.

AN ACT to Fix the Compensation of the Judges of the County Courts and Provide a Fund to Reimburse the County for the Same.

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

§ 1. JUDGES' SALARY FIXED BY POPULATION OF COUNTY.] As compensation for their services, there shall be allowed and paid to the judges of the county courts in all counties an annual salary, based upon the population thereof as follows, viz.: For the first 3,000 inhabitants or fraction thereof, the sum of three hundred (300) dollars per annum, for the next 3,000 inhabitants, the sum of one hundred (100) dollars per annum, for each 1,000 inhabitants or fraction thereof, and for each additional 1,000 inhabitants or fraction thereof the sum of fifty (50) dollars per annum, to be paid by the treasurer of the county upon the warrants of the county auditor or clerk; and in all counties, whenever the county courts shall have civil and criminal jurisdiction, the judges of such county courts, as compensation for such additional services, in addition to that hereinbefore provided, shall be paid one-half as much more; *Provided, always,* That the salary of the county judge in any county shall not exceed the sum of \$2,000; *Provided, further,* That the judges of the county courts may receive such fees as are allowed by law, in taking acknowledgement of deeds or other instruments and other acts, other than in the settlement of the estates of decedents, of wards, the guardianship of infants and the adjudication of civil and criminal actions;

and that all causes in probate commenced prior to the taking effect of this act shall not be effected thereby.

§ 2. PROVISION FOR CLERK HIRE.] In all counties having a population of 15,000 inhabitants, there shall be allowed and paid to the judge of the county court thereof, as clerk hire, the sum of six hundred (600) 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 fraction thereof, and such other and further sum 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.

§ 3. POPULATION, HOW DETERMINED.] The county auditor or county clerk shall determine the population of his respective county by multiplying by five the total vote cast in the last general election of county officers prior to the year in which said salary is to be paid: the result shall be taken as the population of such county.

§ 4. HOW COUNTY TREASURER TO BE REIMBURSED.] For the purpose of reimbursing the county treasurer for the salaries provided in the foregoing sections to be paid to the judges of the county courts, each petition for letters testamentary, administration or of guardianship, before filing the same in the county court, shall pay or cause to be paid into the county treasury, for the use and benefit of the county in whose county court proceedings are to be instituted to settle the estate of any deceased person or for the appointment of a guardian, the following sums, according to the value of the estate of such deceased person or of such ward, as appears by the sworn statement in the petition of such applicant, that is to say: Five (5) dollars when the value of such estate does not exceed the sum of five hundred (500) dollars; ten (10) dollars when the value of such estate does not exceed the sum of \$1,500; fifteen (15) dollars when the value of such estate does not exceed \$2,500; twenty (20) dollars when the value of such estate does not exceed \$5,000, but does exceed \$2,500; twenty-five (25) dollars when the value of such estate exceeds the sum of \$5,000, and shall not exceed \$10,000; thirty (30) dollars when such estate exceeds the sum of \$10,000, but not \$15,000; forty (40) dollars when the value of such estate shall exceed the sum of \$15,000, but not of \$20,000; fifty (50) dollars when the value of such estate exceeds the sum of \$20,000, but not of \$25,000, and seventy-five (75) dollars in all cases where the value of such estate shall exceed the sum of \$25,000, and in all cases in addition, all sums necessarily expended in publishing or serving notices required by law. And in the adjudication of all civil and criminal actions the same fees and costs shall be paid as in like actions and matters in the district court, the same to be paid to the judge of the county court, a record [to] be kept of, and by him turned over to the county treasurer.

§ 5. PAYMENTS MADE TO TREASURER —RECEIPTS.] When the payments provided for in the foregoing sections shall be made to the treasurer of the proper county, he shall execute therefor duplicate receipts, one of which shall be filed with the county auditor, and one with the judge of the county court of such county.

§ 6. CLERK.] In any county of less population than those in which provision is made for clerk hire, the judge thereof may at his option be *ex-officio* clerk, or he may appoint and have a clerk; *Provided*, That an appointed clerk under this section shall receive no compensation whatever for his services from the county.

§ 7. EMERGENCY.] Whereas, the Constitution of the State of North Dakota provides that the judges of the county courts shall receive a salary in compensation of their services, and the amount of the same not being therein determined but to be fixed by law, and it being necessary that the same be immediately determined and fixed; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 18, 1890.

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## CHAPTER 51.

[S. F. 213.]

### MANNER OF CONFERRING ADDITIONAL JURISDICTION.

AN ACT to Provide for Submitting the Question of Conferring Additional Jurisdiction upon County Courts.

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

§ 1. SUBMITTED TO VOTE OF PEOPLE.] It shall be the duty of the board of county commissioners in each county in this State having a population of 2,000 or over to submit to a vote of the electors of such county, at the next general election, the question of increasing the jurisdiction of the county court, and persons who desire to vote for said proposition shall have written or printed on their ballot, "For increasing the jurisdiction of the county courts," and all persons desiring to vote against said proposition shall have written or printed on their ballots, "Against increasing the jurisdiction of the county court."

§ 2. CONCURRENT JURISDICTION, HOW CONFERRED.] If a majority of all the votes cast for and against said proposition be in favor of increasing such jurisdiction, then said county courts shall have concurrent jurisdiction with the district courts in all civil actions where the amount in controversy does not exceed \$1,000, exclusive of costs, and in all criminal actions below the grade of

felony, and in all counties where it is decided by the voters to so increase the jurisdiction of said county court, the jurisdiction in cases of misdemeanors arising under State laws which may have been conferred upon police magistrates, shall cease.

§ 3. POPULATION, HOW DETERMINED.] The county commissioners shall determine the population of their respective counties by multiplying by five the total vote cast in the general election of county officers for the year 1888.

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

Approved March 20, 1890.

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## CHAPTER 52.

[S. F. 215.]

### DEFINING PRACTICE OF COURTS HAVING CRIMINAL JURISDICTION.

#### AN ACT Fixing the Terms of Court and Defining the Practice in County Courts Having Civil and Criminal Jurisdiction.

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

§ 1. TERMS OF COURT.] It shall be the duty of the county judge in each county in this State, in which the jurisdiction of the county court shall be hereafter increased by vote of the people, to hold a regular term of the county court at his office at the county seat or at some place at the county seat to be designated by him, commencing at 9 o'clock a. m., on the first Monday of each calendar month, for the trial of such civil actions as may be brought before such court. Such regular term shall be deemed to be open without any formal adjournment thereof until the third Monday of the same month, when all causes not then finally determined shall be continued by such court to the next regular term, but such courts shall be deemed to be always open for the filing of papers and issuance of process in civil actions, and for the purpose of taking and entering judgment by confession.

§ 2. SUMMONS, WHEN RETURNABLE.] In all cases commenced in said courts, it shall be the duty of the county judge to issue a summons, returnable on the first day of the next term of said court, if there be ten days intervening between the issuance of the summons and the first day of the term and if not then to be made returnable on the first day of the next term thereafter, which summons shall be directed and delivered to the sheriff or any constable of said county, and the sheriff or constable shall serve the

same upon the defendant as in other civil cases, at least ten days before the return day thereof. When the summons has not been served ten days before the first day of the term the cause shall stand continued until the next regular term of said court, and shall then stand for trial, without further notice to the defendant.

§ 3. COMPLAINT AND ANSWER.] In all civil actions in the county court, the plaintiff, his agent or attorney shall, before the summons is issued therein, file in such court a complaint, setting forth in ordinary and concise language, his demands; and the defendant shall also, on or before the first day of the term at which the cause stands for trial, file in such court his answer containing any counter-claim or other defense he may have. Such pleadings shall be verified in like manner as pleadings are required to be verified in the district court.

§ 4. MOTIONS AND DEMURRERS.] In actions before said court, motions and demurrers shall be allowed, and the rules of practice concerning pleadings and processes in the district court shall be applicable, so far as may be, to pleadings in the county court.

§ 5. JUDGMENT.] If no answer is filed on or before the first day of the term, in any action to be tried during such term, the plaintiff may have the default of the defendant entered, and may proceed to judgment on the same on any succeeding day during the term, upon proving his cause of action.

§ 6. JURY MAY BE DEMANDED.] Either party may demand a jury for the trial of any cause pending in the county court, wherein the amount exceeds fifty (50) dollars; but such demand must be in writing and entered on the docket on or before the filing of the answer in such case.

§ 7. JURY, HOW SELECTED.] Upon the filing of such demand for a jury, the county judge shall cause a jury to be selected and summoned in the same manner as is provided for selecting jurors in civil actions before justices of the peace.

§ 8. CALENDAR.] The county judge shall, on the first day of each term, or as soon thereafter as may be, prepare a calendar of the causes standing for trial at such term, placing the causes upon such calendar in the order in which the same are numbered on the docket, and setting the causes for trial, in such order, upon convenient days during such term; and the provisions of the code of civil procedure relative to the trial docket in the district court, shall, so far as they are in their nature applicable, apply to such calendar.

§ 9. STAY OF EXECUTION.] Any person against whom a judgment is rendered, on all sums exceeding one hundred (100) dollars, may have stay of execution in like manner as upon judgments rendered in the district court, and upon the same conditions; and upon all sums of one hundred (100) dollars and under, the same as provided for in actions before justices of the peace.

§ 10. JUDGMENT LIENS.] Any person having a judgment ren-

dered by a county court may cause a transcript thereof to be filed in the office of the clerk of the district court in any county of this State, and when said transcript is so filed, and entered upon the judgment record, such judgment shall be a lien on real estate in the county where the same is filed, and when the same is so filed and entered upon such judgment book, the clerk of such court may issue execution thereupon in like manner as execution is issued upon judgments rendered in the district court.

§ 11. EXECUTION ON JUDGMENT.] The county judge shall issue execution on judgments rendered by said court, and the proceedings upon any such execution shall, in all cases, be as is provided by law governing executions issued upon the judgments of a justice of the peace.

§ 12. WRITS, HOW ISSUED.] All writs, citations, and all process in civil actions, issuing out of any county court, shall be under the seal thereof, and be signed by the county judge.

§ 13. PROCESS, PENALTY OF FAILURE TO SERVE.] All process in civil actions in such court shall be directed to the sheriff or any constable of the county and the same shall be served by the officer to whom it is directed, and return thereof made at the time therein directed; and for any neglect or omission to do so, he and his sureties may be proceeded against in like manner as in similar cases in the district court.

§ 14. PROCESS, HOW SERVED.] All writs, notices, orders, citations and other process, may be served in like manner as a summons in a civil action in the district court, and the service of the same by copy left at the usual place of residence of the party to be served, shall be deemed equivalent to personal service thereof in case personal service is required by law. In cases where writs, notices, citations or other process cannot be served as aforesaid in this State, the county court may, in cases where it may be necessary, order the service thereof to be made by publication in some newspaper in this State in such manner as the court may direct, and thereupon the same proceedings may be had as if such writ or other process had been served as aforesaid in this State. Nothing contained in this section shall limit or take away the power of the county court or judge thereof, to give notice or cause the same to be given by publication in the various cases provided by law.

§ 15. SAME.] All writs and other process, except subpoenas, may be executed and served, as the case may require, in any county in the State, and if it be a county other than that of the residence of the county judge, the same shall be directed to the sheriff of such other county.

§ 16. SHERIFF TO SERVE.] It shall be the duty of the sheriffs of the several counties to execute or serve all writs and process issued by any county court and to them directed, and to return the same; for any neglect or refusal so to do, they may be pro-

ceeded against in the county court the same as for a neglect or refusal to execute or serve process issued out of the district court.

§ 17. APPEAL—BOND.] In civil actions brought under the provisions of this act, either party may appeal from the judgment of the county court, in the same manner as provided by law in cases tried and determined by justices of the peace. The amount of the bond or undertaking shall be double the amount of the judgment and costs, and shall be approved by the county judge.

§ 18. DEPOSITIONS.] Depositions may be taken to be used in evidence in any cause, matter or proceeding pending in any county court, in the like manner and upon the like notice as in actions in the district court. Depositions so taken must be addressed and transmitted to the judge of the court in which the cause, matter or proceeding is pending.

§ 19. CONTINUED CAUSES.] When for any cause the county judge fails to attend at the commencement of any regular term, or at the time when any cause is assigned for trial, or at the time to which any cause may be continued, the parties shall not be obliged to wait more than one hour, and if he does not attend within the hour, the parties in attendance shall be required to attend at 9 o'clock a. m. of the following day, and if such judge shall not attend at that time, the cause shall stand continued until the first day of the next regular term.

§ 20. APPEARANCE.] In all actions brought in the county court in pursuance of the provisions of this act, parties, jurors and witnesses shall be obliged to appear at the time when the summons is returnable, or at which the cause is assigned for trial, or to which it may be continued.

§ 21. ADJOURNMENT.] The time for which any cause may be adjourned, shall be regulated by the county judge in the exercise of a reasonable discretion; *Provided*, That such cause cannot be adjourned over more than three regular terms of said court, upon the application of either party without the consent of the other.

§ 22. DOCKET.] The county judge shall keep a docket in which all of his proceedings in civil actions shall be entered in like manner as near as may be, as the proceedings before justices of the peace in civil actions; and the provisions of the justice code relating to justices' docket shall, as near as may be, apply to the docket of the county judge.

§ 23. COSTS.] In all civil actions brought in the county courts the prevailing party shall recover costs as follows: On all sums over one hundred (100) dollars the same as is provided by law for like cases in district court, on all sums cognizable by a justice of the peace the same as is provided by law in the justice court; in cases other than for the recovery of money costs shall be allowed the same as in like cases in the district court.

Approved March 31, 1890.



## CHAPTER 53.

[H. F. 263.]

## REGULATING PROCEEDINGS IN PROBATE MATTERS.

AN ACT to Amend Sections 171, 172 and 173 of the Probate Code.

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

§ 1. WHEN SALE NECESSARY.] That Section 171 of the Probate Code be amended to read as follows:

"Sec. 171. When a sale of property of the estate is necessary to pay the allowance of the family, or the debts outstanding against a decedent, or the debts, expenses or charges of administration, or legacies, or that such sale is for the best interests of the estate, and the persons interested in the property to be sold, whether it is or is not necessary to pay the debts or family allowance, the executors or administrators may also sell any real as well as personal property of the estate in his hands upon the order of the county court, and an application for the sale of real property may also embrace the sale of personal property."

§ 2. REQUISITES OF PETITION FOR SALE.] That Section 172 of the Probate Code be amended to read as follows:

"Sec. 172. To obtain an order for the sale of real property, he must present a verified petition to the county court, or to the judge thereof, setting forth the amount of personal property that has come into his hands as assets, and how much thereof, if any, remains undisposed of; the debts outstanding against the decedent, as far as can be ascertained or estimated; the amount due upon the family allowance, or that will be due after the same has been in force for one year; the debts, expenses and charges of administration already accrued, and the estimate of what will or may accrue during the administration; the facts showing the sale to be for the best interest of the estate, if the application is made upon that ground; a general description of all the real property, except the homestead, of which the decedent died seized, or in which he had any interest, or in which the estate has acquired any interest, and the condition and value thereof; the names of the legatees and devisees, if any, and the heirs of the decedent, so far as known to the petitioner. If any of the matters here enumerated cannot be ascertained, it must be so stated in the petition, but a failure to set forth the facts showing the sale to be necessary will not invalidate the subsequent proceedings, if the defect be supplied by the proofs at the hearing, and the general facts showing such necessity be stated in the decree."

§ 3. ORDER FOR HEARING.] That Section 173 of the Probate Code be amended to read as follows:

"Sec. 173. If it appears to the court or judge, from such petition that it is necessary to sell the whole or some portion of such real estate for the purposes and reasons mentioned in the preceding section, or any of them, or that such sale is for the best interest of the estate, such petition must be filed and an order thereupon made, directing all persons interested in the estate to appear before the court, at a time and place specified, not less than four nor more than ten weeks from the time of making such order, to show cause why an order should not be granted to the executors or administrators to sell the whole or so much of the real estate of the decedent as is necessary, or for the best interest of the estate."

Approved March 15, 1890.

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## CHAPTER 54.

[S. F. 109.]

### GRANTING POWER TO DIRECT THE MORTGAGING OF REAL ESTATE BELONGING TO MINORS.

AN ACT Granting Power to County Courts to Direct the Mortgaging of Real Estate Belonging to the Estate of Deceased Persons and the Estate of Minors and Incompetent Persons.

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

§ 1. WHEN COURT MAY AUTHORIZE MORTGAGE.] The county court, if satisfied it would be clearly for the best interests of all concerned, after a full hearing upon the petition of anyone interested in the estate of a deceased person, or in the estate of a minor or incompetent person, and after an examination of the proofs and allegations of the parties interested, may authorize the executor, administrator or guardian, as the case may be, to borrow money upon the real estate belonging to said estate or some part thereof, and execute a mortgage therefor; *Provided*, That no mortgage shall be executed for an amount exceeding the one-half of the appraised value of the land sought to be mortgaged, including all former mortgages and said mortgage shall run for such a term of years as shall appear to the court for the best interest of all concerned.

§ 2. NOTICE BY ORDER TO SHOW CAUSE.] Before any such mortgage is authorized to be executed the court must direct notice by

order to show cause to be personally served upon all persons interested in the estate, and on any general guardian of a minor, or incompetent person, so interested, and any legatee, or devisee, or heir of a decedent provided they are residents of the county, at least two weeks before the time appointed for hearing the petition, and published once a week for two successive weeks in such newspaper of the county where the court is held as the judge shall direct. If there be no newspaper published in the county in which the proceedings are had, then it shall be published in such newspaper as the court or judge may direct, and shall be in all cases posted in three of the most public places in the county where the land is situated; *Provided*, That all parties interested in said estate shall, before final action is taken according to the provisions of Section 1 of this act receive due notice as provided by law for the sale of real estate of decedents. If all persons interested, in the estate join in the petition or assent in writing to the execution of the mortgage, the notice may be dispensed with and the hearing may be had any time.

§ 3. EMERGENCY.] As there is no law granting power to county courts to mortgage the real estate of deceased persons as provided in Section 1, an emergency arises and this act shall take effect and be in force from and after its passage and approval.

Approved February 26, 1890.

## COUNTY OFFICERS.

### CHAPTER 55.

[H. F. 272.]

#### SALARIES FIXED BY COUNTY COMMISSIONERS.

##### AN ACT to Provide for Fixing the Salaries of County Officers.

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

§ 1. SALARIES OF COUNTY OFFICERS, WHEN FIXED.] The board of county commissioners, at their quarterly meeting in the month of July, or at some special meeting during said month next prior to each and every general election, shall fix the amount of salary which shall be received by every county officer for the ensuing term, whose salary is fixed by the board of county commissioners, and is entitled by law to receive a salary, payable out of the county treasury. And the salary so fixed shall not be increased or diminished dur-

ing said term of office. This section shall not apply to any county wherein the salaries of its officers have been provided and fixed by law.

§ 2. All acts and parts of acts conflicting with the provisions of this act are hereby repealed.

Approved March 18, 1890.

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## COUNTY SEATS.

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### CHAPTER 56.

[H. F. 291.]

#### MANNER OF RELOCATING COUNTY SEATS.

AN ACT to Provide for the Changing and Relocating of County Seats.

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

§ 1. THREE-FIFTHS VOTE REQUIRED.] That whenever the inhabitants of any county in this state are desirous of relocating and changing the place of the county seat of their respective counties, and upon petitions being presented to the county commissioners signed by one-third in number of the qualified voters of such county as shown by the vote cast at the last preceding election for State officers holden in such county, it shall be the duty of said board of county commissioners in the notices for the next general election to be held in such county to notify the voters thereof to designate upon their ballots at said election the place and location of their choice, and if upon canvassing the vote so given and deposited at such election, it appears that any one place has three-fifths of the votes polled and cast, such place shall be the county seat of such county, and the board of county commissioners and all officers of such county shall within fifteen days after the result of said election has been declared by the canvassing board of such election remove all records, books, papers and paraphanlia belonging to their several county offices to the place having received three-fifths of the votes so cast; *Provided*, That nothing in this act shall permit the removal to or locating of the county seat of any county at a place not located upon a line of railroad, nor wherein the court house and jail now erected exceeds in value the sum of \$35,000.

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

Approved March 7, 1890.

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## COURT RECORDS.

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### CHAPTER 57.

[H. F. 275.]

#### TRANSFER OF RECORDS IN CERTAIN CASES.

AN ACT to Provide for the Clerks of Court to Transcribe and Deliver all Papers and Records Pertaining in any Manner to any Civil and Criminal Action now Pending in any County to the Clerk of the Court of the County in which such Action or Actions Properly Belong.

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

§ 1. ACTIONS, TO BE TRIED IN SUBDIVISION WHERE CAUSE AROSE.] That all actions and proceedings, both civil and criminal, now pending in any subdivision in any judicial district, heretofore created by act or acts of the Legislature of the Territory of Dakota which do not properly belong therein under the provisions of the Code of Civil Procedure and the Code of Criminal Procedure of the Territory of Dakota, now State of North Dakota, by reason of the change in the judicial districts and subdivisions thereof heretofore existing by law, said change made and established by Section 105 of the Constitution of the State of North Dakota, shall be tried, heard and determined in the district court held in the district and in the county wherein the cause of action arose, or the offense was committed, or the venue is laid.

§ 2. TRANSCRIBING OF RECORDS—DUTY OF CLERK.] That the clerk of the court of any county having within his custody any papers or records pertaining in any manner to any action or proceeding, either civil or criminal, which does not properly belong to his county according to the provisions of Section 1 of this act, shall and is he hereby required under his hand and seal, where a seal is required by law to be used, transcribe and deliver all such papers and records to the clerk of the court of the county to which the same properly belongs; *Provided, however,* That such clerk of the court may retain possession of all such papers and records until such time as all accrued fees in the action or actions to be transferred are fully paid.

§ 3. EMERGENCY.] An emergency exists in that by constitutional provision the boundaries of judicial districts have been changed and actions are now pending in counties in which they do not properly belong; therefore, this act shall be in force and effect from and after its passage and approval.

Approved March 31, 1890.

# DENTAL SURGERY.

## CHAPTER 58.

[S. F. 7.]

### REGULATING THE PRACTICE OF DENTISTRY.

AN ACT to Revise and Amend an Act Entitled "An Act to Insure the Better Education of Practitioners of Dental Surgery, and to Regulate the Practice of Dentistry in the Territory of Dakota."

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

§ 1. WHO MAY PRACTICE—LICENSE.] That it shall unlawful for any person who is not, at the time of the passage of this act, lawfully entitled to practice dentistry in this State, pursuant to the provisions of the act of which this act is a revision and amendment, to practice or attempt to practice dentistry in this State, unless such persons shall have first received a license to practice dentistry from the Board of Dental Examiners, as hereinafter provided.

§ 2. BOARD OF EXAMINERS.] A Board of Examiners to consist of five practicing dentists is hereby created, whose duties it shall be to carry out the purposes and enforce the provisions of this act. The members of said board shall be appointed by the Governor. The term for which the members of said board shall hold their offices shall be five years, except that the members of the board appointed by the Governor pursuant to the provisions of the act to which this is an amendment, residing in North Dakota, and acting as such at the time this act shall take effect shall hold their respective offices until the close of the term for which they were respectively appointed. The offices of those living in South Dakota are hereby declared vacant and shall be filled as in case of any other vacancy. Any vacancy in said board, whether by removal, death, resignation or otherwise, shall be filled by the Governor. No person who shall be in any manner pecuniarily interested in, or who shall be officially connected with, any dental college or dental department of any school or university, shall be appointed a member of said board.

§ 3. OFFICERS—RECORD.] Said board shall have power to make reasonable rules and regulations for carrying into effect and maintaining the provisions of this act. It shall choose one of its members president and one secretary thereof, and shall hold regular meetings twice in each year, and such other regular and

special meetings as said board may by its rules provide. A majority of said board shall at all times constitute a quorum thereof for the transaction of business, but a less number may adjourn from time to time. The board shall keep full and complete minutes of its proceedings, and of its receipts and disbursements, and a full and accurate list of all persons licensed and registered by said board, and such records, together with the list of licensed and registered dentists, to be kept as aforesaid, shall be public records, and shall at all reasonable times be open to public inspection, and such records, or a transcript of the same, or of any part thereof, under the seal of the board, duly certified by the secretary thereof, shall at all times and places be competent evidence of the facts therein stated or recited. A sworn statement by the secretary, under the seal of the board, stating that any person is or is not a registered dentist, shall be *prima facie* evidence that such person is or is not entitled to practice dentistry in this State. The president of the board and the secretary thereof shall have authority to administer oaths, and the board shall have power to hear testimony as to all matters relating to the duties imposed upon it by law.

§ 4. CERTIFICATE OF REGISTRATION—FEE.] It shall be the duty of every person who, at the time this act shall take effect, is a legally qualified practitioner of dentistry in this State, as shown by the books of registration kept by said board, under the provisions of the act of which this is an amendment, and who is desirous to continue such practice, and of all persons who shall thereafter be licensed by said board to practice dentistry; to procure from the secretary of said board, on or before the 31st day of May, 1890, and annually thereafter, a certificate of registration as a practitioner of dentistry in this State. Such certificate shall be issued by the secretary upon payment of a registration fee, to be fixed by the board, which fee shall not exceed the sum of two (2) dollars. All certificates so issued shall expire on the 31st day of May in each year; and shall be *prima facie* evidence of the right of the holder thereof to practice dentistry in this State during the time for which they were issued. Any certificate or license granted by said board may be revoked by the board, upon conviction of the party holding it, of a violation of any of the provisions of this act. Every person receiving such certificate shall conspicuously expose the same in his place of business.

§ 5. EXAMINATION AND QUALIFICATION OF PRACTITIONERS.] Any person having pursued the study of dentistry in the office, or under the supervision of some regularly practicing dentist, for at least three years before applying for such examination, not lawfully entitled to practice dentistry at the time when this act shall take effect, who shall thereafter desire to practice dentistry in this State, shall appear before said board and be examined with reference to his knowledge and skill in dentistry, and, if upon such examination, such person be found, in the judgment of said board,

to possess suitable qualifications to practice dentistry, and if the board shall be satisfied that the applicant has a good moral character, it shall issue to such person a license to practice dentistry in accordance with the provisions of this act; *Provided*, That any person desiring to commence the practice of dentistry in this State, and having a diploma issued or purporting to be issued by any reputable dental college, or dental department of any university, shall present the same to the State Board of Examiners, and said board being satisfied as to the genuineness of the diploma, and the qualifications of the applicant, shall issue a license to such person to practice dentistry in this State without examination, on payment of the license fee hereinafter provided for. All licenses issued by said board shall be signed by the several members thereof, and be attested by its president and secretary, and the seal of said board.

§ 6. TEMPORARY LICENSE.] Any member of said board may issue a temporary license to any applicant upon the presentation by such applicant of satisfactory evidence that he possess the necessary qualifications to practice dentistry, on the payment of ten (10) dollars, which license shall remain in force until the semi-annual meeting of said board occurring next thereafter, and no longer; but such license shall not be renewed, nor shall it be granted to any applicant who has, within six months previous to his application, been rejected by said board. Such license shall not be valid until it shall be attested by the secretary of the board, under its seal, and the secretary shall keep a record of such licenses the date of their issue and the name of the members by whom each license was issued.

§ 7. WHO REGARDED AS PRACTICING DENTISTRY.] Any person shall be regarded as practicing dentistry within the meaning of this act, who shall perform upon the human teeth, or parts adjacent thereto, any operation or operations such as are commonly known and designated as dental operations, or operations in dental surgery; or who shall hold himself or herself out by means of signs, cards, advertisements or otherwise, as a dentist or dental surgeon. Any legally qualified practitioner of dentistry who has complied with the provisions of this act, or any properly organized and equipped and reputable dental college, or dental department of any reputable school or university, may take into preceptorship a student or students who shall be permitted to perform such operations in the offices or infirmaries of such preceptors and under their immediate supervision, and not otherwise, during the term of three years from the commencement of such pupilage, and no longer, unless for special reasons such time shall, in the discretion of the board, be thereafter extended for a period not exceeding one year; *Provided*, Nothing in this act shall be construed to prevent any legally qualified resident physician and surgeon from extracting teeth, or to prevent any person from



using any domestic remedy or other proper means for the relief of pain in case of an emergency.

§ 8. FEE FOR EXAMINATION—ANNUAL REPORTS, ETC.] In order to provide means for carrying into effect and maintaining the provisions of this act, said Board of Dental Examiners may require each person appearing before it for examination as aforesaid to pay said board a fee not exceeding ten (10) dollars, which shall in no case be returned to such applicant; and if the applicant shall receive a license to practice, he shall thereupon pay the further sum of five (5) dollars, which shall entitle him to receive also a certificate of registration as a practitioner of dentistry in this State for the current or registration year in which such license shall be issued, after the termination of which he shall annually obtain a certificate as hereinbefore provided. All monies received by the board shall be held by the secretary thereof as a special fund for paying the necessary expenses and the compensation of the board and its secretary, as herein provided, and for enforcing the provisions of this act; and the secretary shall give such bond as the board may from time to time require. No part of the salaries or other expenses of the board shall be paid out of the State Treasury, but the annual report of the board shall be printed by the State. The secretary of the board shall receive a salary which shall be fixed by the board, in addition to the necessary and legitimate expenses by him incurred in the discharge of his duties, and each member of the board shall receive as compensation the sum of five (5) dollars per day for each day actually employed by him in attending meetings, or in performing any special duty assigned to him by the board, and shall be reimbursed for all legitimate and necessary expenses by him incurred in the performance of any official duty. Said board shall, on or before the first day of December in each year, make an annual report of its acts and proceedings to the Governor, which report shall contain, among other things, an accurate statement of all monies received and disbursed during the previous year.

§ 9. PENALTY FOR VIOLATION OF ACT—APPEALS.] Any violation of any of the provisions of this act shall subject the party violating the same to a penalty of not less than twenty-five (25) dollars, nor more than fifty (50) dollars, for the first offense; of not less than fifty (50) dollars, nor more than one hundred (100) dollars, for the second offense, and of not less than one hundred (100) dollars, nor more than two hundred and fifty (250) dollars, for the third or any subsequent offense, and such penalties shall be sued for and recovered in any court of competent jurisdiction in the name of the people by the state's attorney of the county wherein such offense shall have been committed, or in which the offender may be found, and said penalty, when recovered, shall be paid into the common school fund of the county in which the suit shall be brought, and in case of the non payment of such penalty,

the party so offending shall be liable to imprisonment for a period not exceeding six months, in the discretion of the court having cognizance thereof; *Provided*, That either party may appeal in the same time and manner as appeals may be taken in other cases, except that where an appeal is prayed in behalf of the people, no appeal bond shall be required to be filed, whether the appeal be from a justice of the peace, or from the county or district court, or from the appellate court. But it shall be sufficient in behalf of the people of the State of North Dakota, for the use of the Board of Dental Examiners, to pray an appeal, and thereupon an appeal may be had without bond or security; *Provided, further*, That no proceeding shall be commenced against any party for failure to procure the annual certificate of registration provided for in Section 4, until after such party shall have been served with proper notice of such failure, and the penalty thereby incurred. Each operation performed and each patient treated, contrary to the provisions of this act, shall be deemed and held as a separate offense.

§ 10. PENALTY FOR FALSE PRETENSE.] Any person who shall willfully and falsely claim or pretend to have or hold a certificate of license or registration of this board, or of any similar board of any other state, or who shall willfully and falsely, with intent to deceive the public, claim or pretend to be a graduate of or hold a diploma granted by any incorporated dental society or dental college, shall be subject to the penalties provided for in Section 9 of this act, to be sued for and recovered and paid out as in said section provided.

§ 11. All laws or parts of laws in conflict with this act are hereby repealed.

Approved February 6, 1890.

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## DEPUTIES.

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### CHAPTER 59.

[H. F. 233.]

#### APPOINTMENT AND BOND OF DEPUTY OFFICERS.

AN ACT to Amend Section 1, Chapter 6, of the Revised Code of 1877, Being Section 1397 of the Compiled Laws.

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

§ 1. DEPUTIES IN CERTAIN OFFICES.] That Section 1, Chapter 6 of the Revised Code of 1877, being Section 1397 of the Compiled Laws of 1887, be amended to read as follows:

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“The State Auditor, Treasurer, Superintendent of Public Instruction and Secretary of State, the county treasurer, sheriff, register of deeds, surveyor, clerk of the district court and assessor may each appoint a deputy, for whose acts as such he shall be responsible; and each officer required to give bond may require a bond from his deputy in a penal sum not greater than half the penal sum of his own bond, and such bond may be retained by the officer for his own protection; and the appointment must be in writing and shall be revocable in writing at the pleasure of the principal, and all such appointments and revocations shall be filed as and where required for the bond and oath of the principal.”

§ 2. EMERGENCY.] There being an emergency existing by virtue of there being no provision for deputies in certain offices; therefore, this act shall take effect and be in force immediately upon its passage and approval.

Approved March 31, 1890.

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## CHAPTER 60.

[H. F. 344.]

### PROVIDING FOR APPOINTMENT OF DEPUTY COUNTY CLERK.

#### AN ACT Granting Certain Powers to County Commissioners.

*Be it Enacted by the Legislative Assembly of the State of North Dakota.*

§ 1. WHEN DEPUTY REGISTER OF DEEDS MAY BE HAD.] That the county commissioners in counties where the office of register of deeds and county clerk are one, be and are hereby empowered to allow a reasonable compensation to pay a deputy for said register of deeds and county clerk, where one is needed to assist in performing the duties of said office; *Providing*, That the amount so paid shall not exceed four hundred (400) dollars per annum.

Approved March 20, 1890.

# DISTRICT COURTS.

## CHAPTER 61.

[S. F. 8.]

### PROVIDING FOR INTERCHANGING OF DISTRICT JUDGES.

AN ACT to Provide for the Interchanging of District Judges and for Holding Court When the Judge Thereof is for any Reason Unable to Act.

WHEREAS, Section 116 of Article 4 of the Constitution provides that "Judges of district courts may hold court in other districts than their own under such regulations as shall be prescribed by law;" therefore,

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

§ 1. WHEN INTERCHANGE SHALL BE REQUESTED.] That whenever the judge of a district court is unable to act for any reason in holding a term of court, or is disqualified from trying any case by reason of having been attorney in said action or for any other disqualifying reason, then it shall be the duty of said judge so disqualified to request one of the district judges not disqualified to hold said court, or to preside at said court, and try such case or cases, and do and perform all such acts as might have been done and performed by the judge of said district.

§ 2. DUTY OF JUDGE CALLED UPON TO RESPOND.] That it shall be the duty of the district judge so requested to respond by holding said district court, or to try and determine any motion, case or cases, as provided for in Section 1 of this act; *Provided, however,* That said judge so requested can do so without neglecting or disarranging the court business of his own district.

§ 3. EMERGENCY.] That, whereas, it is important and necessary that this act should take effect as soon as practicable and at a date long prior to July 1, 1890, therefore for reasons aforesaid this act shall take effect and be in force from and after its passage and approval.

Approved February 10, 1890.

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# EDUCATION.

## CHAPTER 62.

[S. F. 143.]

### PROVIDING FOR UNIFORM SYSTEM OF PUBLIC SCHOOLS.

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:*

### ARTICLE I.

#### STATE SUPERINTENDENT OF PUBLIC INSTRUCTION.

§ 1. QUALIFICATION OF SUPERINTENDENT—TERM OF OFFICE—BOND.] There shall be chosen by the qualified electors of the State at the times and places of choosing members of the Legislative Assembly a Superintendent of Public Instruction, who shall have attained the age of twenty-five years, and shall have the qualifications of a state elector and is the holder of a state certificate of the highest grade, issued in some state, or is a graduate of some reputable university, college or normal school. He shall hold his office at the seat of government for the term of two years from the first Monday in January following his election, and until his successor is elected and qualified. Before entering upon his duties, he shall take the oath of civil officers and give a bond in the penal sum of \$5,000, with not less than two sureties, to be approved by the Governor and Attorney General.

§ 2. TO PRESERVE MISCELLANEOUS DOCUMENTS.] The State Superintendent of Public Instruction shall preserve in his office all books, maps, charts, works on education, school reports and school laws of other states and cities, plans for school buildings, and other articles of educational interest and value which may come into his possession as such officer, and at the expiration of his term shall deliver them, together with the reports, statements, records and archives of his office, to his successor.

§ 3. SUPERVISION OF SCHOOLS.] 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 Board of the State.

§ 4. TO FURNISH 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.

§ 5. TEACHERS' CERTIFICATES.] He shall prepare or cause to be prepared all questions to be used in the examination of applications for teacher certificates, prescribe the rules and regulations for conducting all such examinations, and issue or revoke State certificates as provided for in this act.

§ 6. COURSE OF STUDY.] He shall prepare and prescribe a course of study for all the public schools and State Normal Schools and the course of study, training and practice of the professional department of schools designated and supported wholly or in part by the State.

§ 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.

§ 8. COUNSEL WITH COUNTY SUPERINTENDENTS.] He shall counsel with and advise county superintendents upon all matters involving the welfare of the 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.

§ 9. RECORD OF OFFICIAL ACTS.] He shall keep a complete record of all his official acts, and shall file in his office all appeals and papers appertaining thereto.

§ 10. SCHOOL LAWS TO BE PRINTED.] He shall at least once in two years cause to be printed the School Laws of the State, with such notes and decisions thereon as may seem to him advisable, and shall furnish them as they are needed to the school officers in the State.

§ 11. CONFERENCE WITH COUNTY SUPERINTENDENTS.] He shall meet the county superintendents of each judicial district or of two or more districts combined, at such time and place as he shall appoint, giving them due notice of such meeting. The objects of such meeting shall be to accumulate valuable facts relative to schools, to compare views, to discuss principles, to hear discussions and suggestions relative to the examinations and qualifications of teachers, methods of instruction, text books, institutes, visitation of schools and other matters embraced in the public school system.

§ 12. SEAL.] He shall provide and keep a seal, which shall be the official seal of the State Superintendent of Public Instruction, and by which all of his official acts may be authenticated.

§ 13. TO ASSIST TEACHERS' INSTITUTES.] He shall, as far as he shall find practicable, attend, hold and assist at teachers' institutes, and aid and encourage generally teachers in qualifying themselves for the successful discharge of their duties; he shall labor faithfully in all practicable ways for the welfare of the public

schools of the State, and shall perform such other duties as shall be required of him by law.

§ 14. BIENNIAL REPORT, WHAT TO CONTAIN.] He shall, on or before the first day of November preceding the biennial session of the Legislative Assembly, make and transmit to the Governor, a report showing:

First. The number of school districts, schools, teachers employed and pupils taught therein, and the attendance of pupils and studies pursued by them.

Second. The financial condition of the schools, their receipts and expenditures, value of school houses and property, cost of tuition and wages of teachers.

Third. The condition, educational and financial, of the normal and higher institutions connected with the school system of the State, and as far as it can be ascertained, of the private schools, academies and colleges in the State.

Fourth. Such general matters, information and recommendations relating to the educational interests of the State as he may deem important.

§ 15. REPORTS TO BE PRINTED.] Two thousand five hundred copies of the report of the State Superintendent shall be printed biennially in the month of December, preceding the session of the Legislative Assembly. Five copies shall be furnished to each of the members of the Legislative Assembly, one copy to each county superintendent of the State, one copy to the president of each school board, two to each State officer, one to each State and Territorial Superintendent, twenty copies shall be filed in the office of the State Superintendent and ten in the State Library. The balance shall be distributed among the various college, university and other libraries of the United States.

§ 16. SALARY—TRAVELING EXPENSES.] He shall receive such annual salary as shall be prescribed by law, to be paid monthly on the warrant of the Auditor of State. He shall also be paid his traveling expenses necessarily incurred in the discharge of his duties, not to exceed six hundred (600) dollars in any one year to be paid monthly on the warrant of the Auditor of the State when he shall have filed with the Auditor an itemized statement of such expenses properly verified.

## ARTICLE II.

### COUNTY SUPERINTENDENT OF SCHOOLS.

§ 17. ELECTION—TERM OF OFFICE.] There shall be elected on the third Tuesday in June in each even numbered year, in each organized county in the State, a county superintendent of schools to serve for two years, from the first Monday in October following his election, and until his successors shall have been elected and qualified; except in those counties in which the last election for county superintendent was held in November, 1888, in which case the present incumbents shall continue in office until the first

Monday in January, 1891. Such election shall be held, and the vote cast shall be canvassed and returned as is provided for in this act.

§ 18. BOND.] The person so elected county superintendent shall, on or before the first Monday in October following, take and subscribe the oath or affirmation of his office, and shall also give a bond in the penal sum of five hundred (500) dollars, for the faithful discharge of his duties, with one or more sureties, to be approved by the county commissioners, which oath and bond shall be filed in the office of the county auditor.

§ 19. FIRST ELECTION, WHEN HELD.] In every county which shall be organized after the passage of this act, the first election for a county superintendent shall be held at the same time and places as the first election for other county officers is held; and the person so elected county superintendent shall hold his office until the first Monday in October thereafter in the next even numbered year, unless such first election be held before the first day of April in an even numbered year, in which case he shall hold his office until the first Monday in October following, and until his successor shall be elected and qualified. The person so elected county superintendent at such first election shall give bonds and qualify and enter upon his duties as provided in this act within ten days after the county commissioners enter upon the duties of their office.

§ 20. GENERAL DUTIES.] The county superintendent shall have the general superintendence of the public schools in his county, except those in cities which are organized under special law.

§ 21. SAME.] He shall visit every public school under his supervision within the county at least once each official year, and oftener if he shall deem it necessary to increase its usefulness. He shall at such visit carefully observe the condition of the school, the mental and moral instructions given, the methods employed by the teacher in teaching, training and drill; the teacher's ability and the progress of the pupils. He shall advise and direct the teacher in regard to the instruction, classification, government and discipline of the school and the course of study. He shall keep a record of such visits and by memoranda indicate his judgment of the teacher's ability to teach and govern, and the condition and progress of the school, which shall be open to inspection by any school director.

§ 22. SAME.] 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.

§ 23. RECORD OF OFFICIAL ACTS.] He shall keep a record of all his official acts. He shall preserve all books, maps, charts and apparatus sent him as a school officer, or belonging to his



office. He shall file all reports and statements from teachers and school boards, and shall turn them over to his successor in office.

§ 24. MEETINGS WITH SCHOOL OFFICERS.] 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.

§ 25. TO DECIDE QUESTIONS OF CONTROVERSY.] He shall decide all matters in controversy arising in his county in the administration of the school law or appealed to him from the decisions of school officers or boards. An appeal may be taken from his decision, in which case a full written statement of the facts, together with the testimony and his decision in the case shall be certified to the State Superintendent for his decision in the matter, which decision shall be final, subject to adjudication or the proper legal remedies in the State courts.

§ 26. POWER TO ADMINISTER OATHS.] The county superintendent shall have power to administer oaths of office to all subordinate school officers, and to witnesses, and to examine them under oath in case of appeal, of petition, of revoking the certificate of a teacher, and in all controversies and questions arising in the administration of the school laws brought or coming before him for opinion, order or decision; but he shall not receive pay for administering such oaths.

§ 27. INSTITUTE FUND, HOW RAISED, HOW USED.] All fees received by the county superintendent for the examination of teachers shall be turned over to the county treasurer, who shall keep the same as a special fund to be known as the "institute fund," and which shall be used only for the expenses of holding county teachers' institutes, to be paid out upon proper warrants issued by the county auditor upon the sworn and itemized voucher of the county superintendent.

§ 28. APPORTIONMENT OF STATE TUITION FUND.] He shall make apportionment of the State Tuition Fund among the school corporations of the county, as provided in this act.

§ 29. TEACHERS' CERTIFICATE, WHEN MAY BE REVOKED.] He shall see to it that the pupils are instructed in the several branches of study required by law to be taught in the schools, as far as they are qualified to pursue them. If any teacher neglects or refuses to give instructions as required by law in physiology and hygiene, and the nature and effect of alcoholic drinks, narcotics and stimulants, the county superintendent shall promptly revoke such teacher's certificate and cause him or her to be discharged. If the teacher so neglecting or refusing to give instructions in said branches holds a State certificate, the county superintendent shall

immediately certify such refusal or neglect to the State Superintendent.

§ 30. REPORT TO STATE SUPERINTENDENT.] He shall, on or before the first day of April each year, make and transmit an annual report to the State Superintendent, containing such statistics, items and statements, relative to the schools of the county, as may be required and prescribed by the State Superintendent. Such report shall be made upon and conform to the blanks furnished by the State Superintendent for that purpose. He shall not be paid his salary for the last quarter in his official year until he presents to the county commissioners, the State Superintendent's receipt for such annual report.

§ 31. DUTIES IN RELATION TO APPRAISEMENT OF SCHOOL LANDS --FEES.] He shall perform such duties as appraiser of the school lands in his county, and also in the leasing and sale of such lands, as may be required of him by the Board of University and School Lands. He shall be paid for such services three (3) dollars a day for the time actually employed therein, and five (5) cents a mile for the distance actually and necessarily traveled in the discharge of such duties. He shall make and present to the county commissioners a detailed statement of the time so occupied and the distance so traveled, which when verified by his affidavit, shall be audited and paid out of the county general fund.

§ 32. OFFICE RENT, POSTAGE AND STATIONERY.] 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 where an office room is furnished by the county it [he] shall not be allowed to exceed more than fifty (50) dollars a year for stationery and postage.

§ 33. SALARY—DEPUTY—TRAVELING EXPENSES.] The salary of the county superintendent shall be as follows: In each county having ten schools or less, two hundred (200) dollars; over ten and under seventy schools, two hundred (200) dollars for the first ten schools, and twelve (12) dollars each for the next sixty schools, and in counties having over seventy schools five (5) dollars additional for each school; *Provided*, That it shall not exceed \$1,200 in any county. In addition thereto he shall receive five (5) 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 and ordered paid by said com-

missioners. 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 the meeting of the commissioners for the transaction of general business, upon the warrant of the county auditor after being audited by the county 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 three hundred (300) 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 only in case of the disability of the county superintendent or his absence from the county; *Provided*, That no additional salary shall be paid such deputy, but he shall be paid five (5) 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 his acts in office.

§ 34. No person shall be deemed legally qualified for the office of county superintendent unless he or she holds a certificate of the highest county grade or its equivalent.

### ARTICLE III.

#### SCHOOL DISTRICTS.

§ 35. WHAT SHALL CONSTITUTE DISTRICT SCHOOL CORPORATION.] Each civil township in every county in the State, not organized for school purposes under the district system at the taking effect of this act, shall be and is hereby constituted a distinct school corporation, and whenever hereafter in any county a civil township shall be organized, it shall from and after such organization as a civil township, be and constitute a distinct school corporation, except as otherwise specially provided in this act.

§ 36. BOUNDARIES OF SCHOOL TOWNSHIP TO CONFORM WITH CIVIL TOWNSHIP WHERE POSSIBLE.] Each school township in every county in the State, which at the taking effect of this act consists of territory not organized into a civil township, shall be and remain a distinct school corporation; *Provided*, Whenever such school township, or any part thereof, shall be organized into or annexed to a civil township, such civil township shall thenceforth constitute a distinct school corporation; *Provided, further*, Nothing in this act shall be construed to alter the boundary lines of any school township organized prior to the passage of this act, except upon petition as hereinafter provided.

§ 37. WHAT TERRITORY MAY BE ORGANIZED INTO DISTRICT SCHOOL CORPORATIONS.] The county commissioner of every county not organized for school purposes under the district school system at the taking effect of this act, shall organize into a district 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 rearrange 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 effected 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 rearrangement 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.

§ 38. NEW SCHOOL DISTRICTS, HOW FORMED.] In any county hereafter organized, the county commissioners shall so divide the county, or the parts thereof, which include every congressional township in said county which has residing therein not less than ten children of school age, into school corporations as will best promote the permanent interests of the public schools in the county, upon the same petition and subject to the same conditions and restrictions contained in Section 37 of this article.

§ 39. WHEN SCHOOL CORPORATIONS MAY BE DIVIDED AND ATTACHED TO OTHER DISTRICTS.] If a part of any such school corporation having not more than ten children of school age residing therein, is separated from the other part of such corporation by any natural obstacle which practically prevents such children from attending school in such other part, the county commissioners of the county may annex such part so separated from the other part to an adjoining school corporation, and the part so annexed shall constitute a part of such adjacent corporation. If such adjacent corporation lie in another county, the county commissioners of the two counties may jointly make such annexation.

§ 40. HOW DISTRICT SYSTEM MAY BE CHANGED TO TOWNSHIP.] 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, the county commissioners, when petitioned so to do by a majority of the voters of each part of said town or village, may

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.

§ 41. WHEN PARTS OF THREE OR MORE DISTRICTS MAY BE CONSOLIDATED INTO A SEPARATE SCHOOL DISTRICT.] If in any county organized at the time of the passage of this act for school purposes under the district system, a school district includes part of three or more civil townships adjacent to or including the common corner of such townships, and has a school house costing \$2,000 or more standing within one mile of such common corner of such townships, the one-fourth of each of the four civil townships, three miles square, lying adjacent to or including such common corner shall constitute a school district.

§ 42. WHEN CIVIL TOWNSHIPS MAY CONSOLIDATE INTO SCHOOL DISTRICT.] In any county not organized for school purposes under the district system at the taking effect of this act, if a civil township having less than fifteen persons of school age residing therein, by reason of the irregular course of natural boundry, contains less than twelve sections or square miles of territory, it shall constitute a part of the adjacent school district with which it has the longest common boundary line.

§ 43. NAME.] Every school corporation constituted or formed by the provisions of this article, shall be designated a school district as distinguished from a civil township or congressional township, and shall be named as follows: Every school district which consists of a civil township, shall be named the.....school district of.....county, State of North Dakota, with the name of the civil township which constitutes the district inserted in the blank before the word "school," and the name of county in which it is situated inserted before the word "county." Every school district which consists of territory not organized into a civil township, but which has been named by a distinctive name, shall have such distinctive name inserted in the blank before the word "school." Every school district consisting of territory not organized into a civil township which has no distinctive name, shall be named school district No. ....of.....county, State of North Dakota, with its proper number inserted in the blank after the word "number," and the proper name of the county inserted in the blank before the word "county;" *Provided*, That in every county organized for school purposes under the district system at the taking effect of this act, the several school districts shall retain and be known by the number which they have respectively at the time of the taking effect of this act, and any school district hereafter formed in any such county shall be known by the number next higher than that of the highest pre-existing numbered district.

§ 44. WHEN BOUNDARIES TO BE RE-ARRANGED AND ESTABLISHED.] The county commissioners and county superintendent of schools

in each county which, at the taking effect of this act, is organized for school purposes under the district system, shall meet on the first Monday in May, 1890, at the place where the meetings of such commissioners are usually held, and shall re-arrange and establish the boundaries of the several school districts of the county as herein provided, to-wit:

1. Every civil township in the county, no part of which is included in a school district already organized, shall be formed into a single school district.

2. Every congressional township in the county, no part of which is included in a civil township, or in an organized school district, if it contains twelve or more persons of school age, shall be formed into a single school district.

3. All territory in a county situate in a civil township, part of which is organized into a school district or districts, or situate in a congressional township not included in a civil township, and a part of which is organized into a school district or districts, shall be annexed to and form a part of an organized school district or districts lying wholly or in part in such civil or congressional township.

4. Each school district now organized which has less than ten persons of school age residing therein, shall be annexed to and form a part of such adjacent school district or districts as shall be most convenient for such persons of school age, when in the judgment of such commissioners and superintendent such annexation can be made without detriment to the schools or to the pupils residing in such districts.

5. The boundary lines of each school district which lies partly within two or more civil townships shall be so changed that such school district shall lie wholly within one civil township, so far as in the judgment of such commissioners and superintendent such change or changes can be made without detriment to the schools or to the pupils therein.

6. Such commissioners and superintendent shall make such changes generally in the boundary lines of the school districts of the county, not in their judgment detrimental to the interests of the schools of the county, as will reduce the number of school districts in the county, and form school districts not extending beyond the boundaries of the civil township.

§ 45. BOUNDARIES, HOW CHANGED IN FUTURE.] After the boundary lines of the several school districts in any of the said counties are rearranged and established as provided for in the last preceding section of this article, such boundary so established may be changed by the county commissioners and superintendent of schools of such county at any regular session of such commissioners upon a petition for such change signed by one-third of the voters residing in each district, whose boundaries will be affected by such change, if in the judgment of the commissioners and superintendent such change is for the best interests of the schools;

*Provided*, That by such change or changes no new district shall be formed, nor shall the number of school districts in the county be increased; *Provided, further*, that each congressional township not wholly or in part included in a civil township, and no part of which is organized for school purposes, shall be formed into a school district as soon as it shall have residing therein twelve or more children of school age.

§ 46. RIGHTS AND POWERS OF SCHOOL CORPORATIONS.] Every school district constituted and formed as provided in this article shall be and is hereby constituted a distinct corporation, and under its own proper name or number, as such corporation may sue and be sued, contract and be contracted with and may acquire, purchase, hold and use personal or real property for school purposes or the purposes mentioned in this act and sell and dispose of the same.

§ 47. PLATS OF SCHOOL DISTRICTS TO BE FILED.] The county auditor shall, within thirty days after the first school election held as provided herein, transmit to the State Auditor, to the State Superintendent and to the county superintendent a plat of the county showing the boundaries and name of each school corporation therein, and shall record a copy of the same, together with all proceedings of the county board had and done under this act, in a proper book kept for the purpose. He shall promptly furnish such officers with a correct plat showing any changes at any time in the boundaries of school corporations. The State Superintendent shall furnish instructions for the suitable preparation and construction of such plats in regard to scale, markings, etc., in order to secure a uniform series of maps for binding for office use.

#### ARTICLE IV.

##### ELECTION OF SCHOOL DISTRICT OFFICERS.

§ 48. ELECTION—OFFICERS TO BE ELECTED.] On the third Tuesday in June, 1890, there shall be elected at large in each school district three school directors, one for one year, one for two years and one for three years, and a school treasurer for the term of two years, and annually thereafter one school director for the term of three years, and biennially thereafter a school treasurer for the term of two years. Said officers shall hold their respective offices from the second Tuesday in July following their election for the number of years respectively for which they were elected, and until their successors are elected and qualified. At the first election for the organization of a new school district there shall be elected at large for such school district three directors, one to serve until the first annual election, one to serve until the second annual election and one to serve until the third annual election thereafter, and a school treasurer to serve until the annual election in the next even numbered year and until their successors are elected and qualified.

§ 49. POLLING PLACES, HOW ESTABLISHED—APPOINTMENT OF JUDGES.] The county superintendent in each county shall, at least twenty days prior to the third Tuesday in June, 1890, fix and designate some polling place in each school district, so located as to be convenient for the voters of said district, and shall appoint two persons to act as judges and two to act as clerks of the election of said school officers; said judges and clerks shall be qualified voters in their respective districts. The county superintendent shall notify in writing said judges and clerks of their appointment, and of the place fixed and designated as the polling place in their respective districts, and shall furnish them with the necessary blanks and poll books for such election. He shall also furnish one of said clerks with three notices of such election, specifying the time and place at which said election is to be held and the officers to be elected and term of each, which notices said clerk shall post in three of the most public places in the district at least ten days prior to the third Tuesday in June. The county superintendent shall fix the date and perform such other duties as devolve upon him by the provisions of this section for the first election in any school district hereafter formed under the provisions of this act, and such election shall be called by the county superintendent within thirty days after the formation of such school district.

§ 50. WHO QUALIFIED TO VOTE OR HOLD OFFICE.] At any election of school officers in any school corporation in this State, all persons who are qualified electors under the General Laws of the State, and all women twenty-one years of age having the necessary qualifications as to citizenship and residence required of male voters by the General laws, shall be qualified voters, and shall be eligible to the office of county superintendent of schools, school director or member of the board of education, or school treasurer, or may be judge or clerk of such election.

§ 51. ELECTION OF COUNTY SUPERINTENDENT.] At the election on the third Tuesday in June, 1890, and biennially thereafter, at the time and place of electing school district officers, the legal voters in each school district, except cities organized under a special school law, in each county, shall vote for a county superintendent of schools for such county.

§ 52. HOURS POLLS OPEN.] At all elections for school district officers, and for county superintendent of schools, the polls shall be open at 2 o'clock p. m. and closed at 5 o'clock p. m.

§ 53. NOTICES OF ANNUAL ELECTION.] Each year after 1890, and at least fifteen days before the third Tuesday in June, the district school board of each school district shall designate one polling place, as convenient as possible to the voters of such district, at which such annual election shall be held, and shall cause notice of such election to be posted in at least three of the most public and conspicuous places within the district. Such notices shall be signed by the clerk, or in his absence by the president of



the district school board, and shall state the time and place of holding such election, and the officers to be elected and their terms of office, and shall be in substantially the following form, to-wit:

Notice is hereby given that on Tuesday the.....day of June, A. D. 18....an election will be held at..... (here insert polling place) for the purpose of electing..... (here insert officers to be elected and term each is to serve) for school district No....or for.....(here insert name of school district), and (if an even numbered year) a county superintendent of schools for.....(insert name of county) county to serve for two years. The polls will be open at 2 o'clock p. m., and closed at 5 o'clock p. m. of that day.

By order of school board,

Signed.....

Clerk.

§ 54. JUDGES.] At such annual election any two of the directors of the school district shall act as judges, and the clerk of the district school board and one other person, to be chosen by the voters present at the opening of the polls, shall act as clerks. The voters present at the opening of the polls shall choose another person to fill the vacancy caused by the absence of either of said officers, to act as judge or clerk of such election. Before opening the polls each of the judges and clerks of election, shall take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm) that I will perform my duties as judge or clerk (as the case may be) according to law and the best of my ability." Such oath or affirmation may be administered by any officer authorized to administer oaths, or by either of the judges or clerks. And any school officer elected and qualified under the provisions of this act is hereby authorized and empowered to administer any oath or affirmation pertaining in any manner to school officers.

§ 55. VOTES, HOW CANVASSED.] Such annual school election shall be conducted and the vote canvassed as provided by law for general elections, except as otherwise provided in this act. Immediately after 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. The return of the number of votes cast for each person for county superintendent of schools shall be signed by such judges and clerk of elections, sealed in an envelope and forwarded to the county auditor within five days after such election.

§ 56. CERTIFICATES OF ELECTION.] The clerk of the school district shall within five days after such election, furnish each person elected to any district office, a written notice of his election, and that he shall take the oath of office as such officer on or before the second Tuesday in July following such election. He shall also forward to the county superintendent within ten days after such

election, a certified list of all the officers elected thereat. Within fifteen days after the annual school election in an even numbered year, the county auditor shall issue a certificate of election to the office of county superintendent of schools, to the person receiving the highest number of votes in the county, according to the returns forwarded to him from the various school districts, including special districts of the county.

§ 57. OATH.] Every person elected to the office of school director or treasurer shall take and subscribe the following oath before entering upon the duties of his office, to-wit: "I do solemnly swear (or affirm) that I will support the Constitution of the United States and Constitution of the State of North Dakota, and that I will faithfully discharge my duties as school director (or school treasurer, as the case may be) according to law and the best of my ability," which oath shall be filed with the clerk of the school district board. The county superintendent shall take and subscribe the oath or affirmation required by law for other county officers, which shall be filed with the county auditor.

§ 58. CERTAIN WORDS CONSTRUED.] Wherever the words "county auditor" occur in this act, they shall be construed to mean "county auditor" or "county clerk." Wherever the word "he" occurs in this act in reference to voters, teachers, district officers or county superintendent, it shall be construed to mean "he" or "she."

## ARTICLE V.

### ORGANIZATION AND MEETINGS OF THE DISTRICT SCHOOL BOARD, AND DUTIES OF THE DISTRICT OFFICERS.

§ 59. DISTRICT SCHOOL BOARD—QUORUM.] The three school directors in each school district shall constitute the district school board. A majority of the board shall constitute a quorum and the agreement of a majority shall be necessary to the validity of any contract entered into by the board.

§ 60. ORGANIZATION—CLERK.] The school board shall meet annually on the second Tuesday in July and organize by choosing one of the members president, and a competent person not a member of the board, clerk, who shall hold his office during the pleasure of the board.

§ 61. MEETINGS OF BOARD—FEES.] The board shall hold four regular meetings each year for the transaction of business, to-wit: On the second Tuesday in July, October, January and April, at such place and hour of the day as may be fixed by the board. A special meeting of the board may be held upon the call of the president of the board, or of the other two members. Written notice of the time and place of any special meeting shall be given to each member of the board at least forty-eight hours before the time of such meeting. Each member of the school board shall be paid the sum of eight (8) dollars, less two (2) dollars for each regular meeting which he fails to attend.

§ 62. DUTIES OF PRESIDENT.] The president shall preside at all meetings of the board, and shall perform such duties as usually pertain to such office and in accordance with the customary rules of order. In his absence a president *pro tempore* shall preside. The president shall perform such other duties as are prescribed in this act.

§ 63. DUTIES OF CLERK—COMPENSATION.] The clerk of the board shall keep an accurate record of all proceedings of the board, give or post all notices, make out all reports and statements and perform all other duties required by law or by the order of the board. He shall receive such compensation as shall be fixed by the board, not less than five (5) dollars nor more than twenty-five (25) dollars per annum.

§ 64. TREASURER'S BOND, HOW APPROVED — VACANCY, HOW FILLED.] The school treasurer shall, on or before the second Tuesday in July following his election, and before entering upon his duties, give a bond to the school district conditioned that he will honestly and faithfully discharge his duties as treasurer, that he will render a true account of all funds and property that shall come into his hands, and pay and deliver the same according to law. Such bond shall be in such penal sum as may be fixed by the board, but not less than double the sum as nearly as can be ascertained to come into his hands in any one year, shall be signed by two or more sufficient sureties, and shall be approved by the school board. In case the school board neglect or refuse to approve the bond of the district treasurer and the sureties thereto, such treasurer may present the same to the county superintendent, and serve notice thereof upon the board, and due proof of such notice being made to the county superintendent he shall, unless good cause for delay appear, proceed to hear and determine the sufficiency of the bond and sureties thereto, and may approve the same, and such approval shall be in all respects valid; *Provided*, That in all cases where a vacancy exists, or may hereafter exist in the office of district treasurer, it shall be the duty of the county treasurer of the county wherein such school district is located, upon being notified by the county superintendent or clerk of such school district that such vacancy exists, to perform the duties of treasurer of such school district until the vacancy is duly filled.

§ 65. WHEN ADDITIONAL BOND REQUIRED.] Whenever the amount in the hands of the treasurer or subject to his order exceeds two-thirds of the penal sum of his bond, or when in the judgment of the board or of the county superintendent the security on such bond is impaired, the board or county superintendent shall require an additional bond or security. If the treasurer fail for twenty days to give such additional bond or security, the office shall be declared vacant, and the vacancy shall be filled as provided in this act.

§ 66. SCHOOL FUNDS, HOW PAID OUT.] 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 for their payment.

§ 67. CERTAIN WARRANTS TO BE ENDORSED WHEN FUNDS NOT IN TREASURY 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 for the payment of such warrant, he shall endorse on such warrant "presented for payment this.....day of..... 18....and not paid for want of funds," and sign such endorsement. 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 endorse 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 endorsed. Every warrant thus presented and endorsed shall draw interest for the amount unpaid at 8 per cent. per annum 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.

§ 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; *Provided*, That no warrant shall be issued except for an indebtedness incurred prior to its issue.

§ 69. OATHS AND BONDS, WHERE TO BE FILED.] All official oaths and bonds of school district officers shall be filed with the district clerk, who shall immediately certify to the county superintendent the fact of such oaths and bonds being filed. In case of the breach of any of the conditions of the treasurer's bonds, the board, through its president, and in case of his refusal so to do the county superintendent shall cause an action to be commenced and prosecuted thereon in the corporate name of the district, and any money collected for the district shall be paid to the district treasurer, and any money collected for fines shall be paid into the county treasury, to be applied to the use of the State Tuition Fund. If the board and county superintendent both fail or refuse to bring such action, then action may be commenced and prosecuted by any tax payer in the district, and the necessary ex-

pense of such action shall be paid out of the district treasury, unless otherwise ordered by the court.

§ 70. SALARY OF SCHOOL TREASURER.] The school treasurer shall be paid for his services such sum as shall be fixed by the board, not less than five (5) nor more than twenty-five (25) dollars per annum.

## ARTICLE VI.

### POWERS AND DUTIES OF THE DISTRICT SCHOOL BOARD.

§ 71. GENERAL POWERS.] The district school board shall have the general charge, direction and management of the schools of the district, and the care, custody and control of all the property belonging to it, subject to the provisions of this act.

§ 72. POWER TO ESTABLISH SCHOOLS.] It shall organize, maintain and conveniently locate schools for the education of the children of school age within the district, or change or discontinue any of them according to law.

§ 73. REPAIRS, FUEL AND SUPPLIES.] It shall make all necessary repairs to the school houses, outbuildings and appurtenances, and shall furnish fuel and all necessary supplies for the schools.

§ 74. FURNITURE, MAPS, REGISTERS, ETC.] It shall furnish to each school all necessary and suitable furniture, maps, charts, and apparatus, including Webster's Unabridged Dictionary. The school registers and all school blanks used shall be those furnished by the State Educational department.

§ 75. TEACHERS, HOW EMPLOYED, QUALIFICATION.] 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; and, *Provided, further*, That every contract for the employment of a teacher must be in writing.

§ 76. ADMISSION OF PUPILS FROM OTHER DISTRICTS.] It shall have power to admit to the schools in the district pupils from other districts when it can be done without injuring or overcrowding such schools, and shall make regulations for their admission and the payment of their tuition. It shall have power to arrange with the board of an adjacent district for sending to such district, such pupils as can be conveniently taught therein and for paying their tuition therein. It shall also have power to make proper and needful rules for the assignment and distribution of pupils to and among the schools in the district and their transfer from one school to another.

§ 77. RULES—SUSPENSION OF PUPILS.] It shall assist and cooperate with teachers in the government and discipline of the schools, and may make proper rules and regulations thereof. It may

suspend or expel from school any pupil insubordinate or habitually disobedient; *Provided*, Such suspension shall not be for a longer period than ten days or such expulsion not beyond the end of the current term of school.

§ 78. BRANCHES OF STUDY.] It shall have power to determine what branches, if any, in addition to those required by law, shall be taught in any school in the district, subject to the approval of the county superintendent.

§ 79. TAX—LEVY OF TO BE NOTIFIED TO THE COUNTY AUDITOR.] 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 twentieth day of July. The clerk shall immediately thereafter notify in writing the county auditor or county clerk of the amount of tax so levied.

§ 80. WHEN SCHOOL HOUSE MAY BE USED FOR OTHER PURPOSES.] It may permit a school house, when not occupied for school purposes, to be used, under careful restrictions, for any proper purpose, giving equal rights and privileges to all religious denominations or political parties; but for any such use or privilege it shall not be at any cost for fuel or otherwise to the district. Nor shall any furniture which is fastened to the floor be removed, and whoever removes any school furniture for any other purpose than repairing the same or for repairing the school room, shall be guilty of a misdemeanor and shall be fined not less than five (5) dollars nor more than ten (10) dollars for each offense. All fines imposed and collected under the provisions of this act shall be paid into the general school fund of the state.

§ 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-fifths of the voters of the district to order the removal of a school house.

§ 82. REAL PROPERTY FOR SCHOOL HOUSE SITES, HOW OBTAINED.] The school board of any school district may take in the corporate name thereof, any real property not exceeding two acres in area, chosen as a site for a school house, as provided in this act, and may hold and use such tract for school purposes only. Should the owner of such real property refuse or neglect to grant and convey such site, the county auditor of the county in which the real property is situated, shall, upon the written application of the district school board, after serving ten days' notice to the opposite party, appoint three resident free holders of the county as appraisers, who shall be sworn to faithfully perform their duties. Such appraisers shall assess the damages the owner of such tract will sustain by taking the same for school purposes, and said appraisers shall directly file their report with the county auditor, giving an exact description of the tract taken for the site and the amount of damages so assessed. If the owner of said property be a non-resident or absent, or cannot be found, said notice shall be served by publication in some newspaper published in the county not less than once each week for four successive weeks. Such notice shall contain a description of the tract to be taken, the name of the owner thereof, the purpose for which it is to be taken and the date when the appraisers hereinbefore mentioned will be appointed. If said school board deposit in the name of the school district with the county treasurer to the credit of the owner of the tract taken, the amount of money so assessed as damages, they shall then be authorized to permanently use said premises for school purposes; *Provided*, That no site, excepting in a village, town or city shall be thus taken within forty rods of any residence, the owner of which objects to its being placed nearer, and in no case in any orchard, garden or public park. If the site so selected be not used for the purposes for which it is taken, for two successive years, it shall revert to the original owner or his assigns upon repayment of the sum originally paid by the corporation, together with a reasonable consideration for the improvements. If such owner or assigns neglect or refuse to make such repayment for one year after demand therefor by the board said site shall be the property of said district.

§ 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 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 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 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 11 of this article. 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 school house and furniture therefor.

§ 84. SCHOOL TERMS, HOW ARRANGED—WHEN SCHOOL MAY BE DISCONTINUED.] The district board shall determine and fix the length of time the schools in the district shall be taught in each year, and when each term of school shall begin and end. It shall so arrange such terms as to accommodate and furnish school privileges equally and equitably to pupils of all ages; *Provided*, That every common school shall be kept in session for not less than four months in each school year; and in every district in which the number of persons of school age is an average of fifteen or more to the school, each school shall be kept in session for not less than six months in each school year; *Provided, further*, That any school may be discontinued when the average attendance of pupils therein for ten consecutive days shall be less than four, and all contracts between school boards and teachers shall contain a provision that no compensation shall be received by such teacher from the date of such discontinuance or when with the consent of a majority of the patrons of such school, proper and convenient school facilities can be provided for the pupils therein in some other school.

§ 85. ADDITIONAL SCHOOL TIME.] If the majority of the patrons of any school averaging for its last term twelve or more pupils in daily attendance, shall petition the board to continue such school for an additional time, not exceeding nine months in any school year, the board shall continue such school for that length of time, if there be funds in the treasury sufficient for that purpose.

§ 86. DISTRICT HIGH SCHOOLS HOW ESTABLISHED—CONTROL OF.] 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 11 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 cost 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.

§ 87. SCHOOL CENSUS—ANNUAL SCHOOL REPORT.] The board shall cause the clerk to make each year an enumeration of all unmarried persons over six and under twenty years of age having their legal residence in the district on the first 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 first day of February following. A copy of such annual report shall be filed in the district clerk's office. Five (5) dollars of the compensation of the clerk shall be withheld from him until said annual report shall have been made, approved and transmitted as is herein required.

§ 88. RECORDS OPEN TO INSPECTION.] All reports, books, records, vouchers, contracts and papers relating to school business in a school district, in the office of clerk or treasurer, shall be at all times open to the inspection of any director, who shall advise and aid towards securing correct records and accounts and legal reports, and they shall likewise be open to the inspection of the State and county superintendents, and any particular paper or record shall be exhibited at reasonable hours to any voter or tax payer.

§ 89. ONLY ENGLISH LANGUAGE TO BE TAUGHT.] All reports and records of school officers, and proceedings of all school meetings shall be kept in the English language, and if any money belonging to any district shall be expended in supporting a school in which the English language shall not be taught exclusively, the county superintendent, or any tax payer of the school corporation may, in civil action in the name of the corporation, recover for the corporation all such money from the officer or officers so expending it or ordering or voting for its expenditure.

## ARTICLE VII.

### SCHOOL FUNDS.

§ 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 as provided for by law and shall constitute the 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.

§ 91. COUNTY TREASURER TO REPORT RECEIPTS QUARTERLY TO STATE AUDITOR.] It shall be the duty of each 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 monies arising from leasing school lands within the county and forward a detailed statement of the monies so collected, specifying the amount received from each of the above sources to the State Auditor, with the quarterly reports on the first of December, March, June and September.

§ 91. STATE AUDITOR TO APPORTION STATE TUITION FUND—FUNDS FROM LEASE AND SALE OF SCHOOL LANDS TO BE KEPT SEPARATE.] It shall be the duty of the State Auditor on or before the first Monday of June and December in each year to apportion the State Tuition 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 Treasurer, and to each county treasurer the amount apportioned to the respective counties, and the State Treasurer shall forward to the county treasurer of each county to which a balance is due the amount due such county, and take his receipt therefor and make demand upon the county treasurer of each county from which a balance is due, and such county treasurer shall forward such balance immediately to the State Treasurer, taking his receipt therefor; *Provided, however,* That all monies arising from interest on the permanent school fund and from leasing school lands shall be apportioned by said State Auditor under a separate item, and such money shall be taken account of as a separate item by the county treasurer when certifying to the county superintendent the money on hand for apportionment, 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 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 from the county treasurer by the district treasurer, to the State Treasurer, who shall receipt for the same, and shall certify to the State Auditor the amount so returned to the State Treasurer.

§ 92. FUNDS DEFINED.] All money received by the school district from the apportionment made by the State Auditor shall constitute and be designated the State Tuition Fund. All money received from district taxes, from subscriptions, sale of property, or from any other source whatever, except from apportionment made by the State Auditor, shall be designated the special fund. In addition to the State Tuition Fund and the special fund, a sinking fund shall be established as provided for by this act.

§ 93. FUNDS CONTROLLED AND PAID OUT BY DISTRICT TREASURER.] All funds shall be kept in the possession 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.

§ 94. COUNTY TREASURER TO FURNISH SUPERINTENDENT WITH STATEMENT.] The county treasurer shall immediately on receipt from the State Auditor of the certified amount of apportionment from the State Tuition Fund in each year, furnish the county superintendent with a statement of all money in the county treasury belonging to this fund, specifying, separately, what part thereof arises from the interest and income of the permanent school fund, and shall pay the same upon the certified apportionment of said county superintendent to the treasurers of the respective school districts of the county; *Provided, however,* The county superin-

tendent 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.

§ 95. APPORTIONMENT OF FUNDS, HOW MADE.] The county superintendent shall as soon as he receives the statement of the county treasurer provided for in the preceding section apportion separately such amounts to the several school districts 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, and he shall immediately notify by mail or otherwise, in writing, each district treasurer of the amounts of money due his school district, and shall certify to the county treasurer and 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; *Provided*, That 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 county superintendent, the newly organized districts shall receive their proportionate share of the funds distributed.

§ 96. SPECIAL SCHOOL DISTRICTS ENTITLED TO PORTION OF TUITION FUND.] Special school districts shall be entitled to receive their proportion of the State Tuition Fund; *Provided*, The clerk or secretary of the board of education thereof shall make report to 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.

§ 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 of January in each year, the school board shall make settlement with the district treasurer, who 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, 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 teachers' wages.

The amount paid for miscellaneous expenses.

The amount paid for the redemption of bonds.

The amount paid as interest on bonds.

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.

§ 98. WHEN COUNTY TREASURER TO PAY OVER FUNDS 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.

§ 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 board and all sums apportioned to the district by the county superintendent 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 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 those credits to balance the accounts he shall add all items for legal fees, for collection and other duties.

§ 100. SCHOOL TAXES, HOW AND WHEN 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.

ARTICLE VIII.

TAXES.

§ 101. SCHOOL BOARD TO LEVY TAX.] Every school district board shall have power 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:

Office of the clerk of...school district,  
.....county, North Dakota,  
.....18....

To the auditor of...county, North Dakota:

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 the school district for the current year.

.....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 said [county] shall certify to the county auditor of the county to which such portion of the district embraced in the other county is attached to the county in which the original district is located in addition to the tax levy above mentioned, a list and valuation of all property subject to taxation in the district, as shown by the assessor making the assessment in such county or township, and the auditor shall enter such property upon the tax duplicate of his county and levy all 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.

§ 102. TAX, HOW LEVIED.] The county auditor of each county shall, at the time of making the annual assessment and levey of taxes, levy a tax of one (1) dollar on each elector in the county for the support of common schools, and a further tax of two (2) mills on the dollar upon all the taxable property in the county, to be collected at the same time and in the same manner as other taxes

are collected, which shall be paid by the county treasurer to the State Treasurer, as provided by law, and which shall constitute a part of the State Tuition Fund.

§ 103. MAXIMUM LEVY FOR FINAL JUDGMENT—TAXES TO BE UNIFORM.] Whenever any final judgment shall be obtained against any school district, the board thereof shall levy a tax upon the taxable property of such district not exceeding in amount twenty (20) mills on the dollar in any one year, which shall be used in the payment thereof. The county auditor shall make out, charge and extend upon the tax list against each description of real property, and against all personal property, and upon all taxable property of the district, all such taxes for schools and judgments he is so notified have been levied by the district in which the property is situated and taxable, in the same manner in which the county and State tax list is prepared, and deliver it to the county treasurer at the same time. All taxes for school purposes shall be uniform upon the property within each school district.

§ 104. STATEMENT OF ASSESSED VALUATION.] Every township assessor, or when the townships are not organized for civil township government, then the county assessor shall on or before the first day of July in each year, furnish to the clerk of the school district, to the county superintendent and to the county auditor a statement of the assessed valuation of all the property in such corporation subject to taxation.

§ 105. INDEBTEDNESS OF DISTRICT, HOW ADJUSTED IN CASE OF ILLEGAL BOARD OR FAILURE TO ELECT BOARD.] If any school district in the State for one or more years past, either through failure to elect a school board, or through failure of the county superintendent to appoint a school board, has been without a legal school board, or if hereafter any school district through such failure to elect or to appoint such school board shall be without such legal school board, and such district shall have an authorized indebtedness either in bonds, interest due on bonds, or otherwise, it shall be the duty of the county superintendent, the county treasurer and county auditor, acting as a board of adjusters, to assess upon the taxable property of such school corporation a tax not to exceed twenty (20) mills on the dollar in any one year upon the assessed valuation thereof for the payment of the same, which tax so levied shall be extended upon the tax lists by the county auditor and be collected by the county treasurer as other taxes are collected, and shall be applied upon and used for the payment of such indebtedness, and shall be paid to the creditors of such district upon the warrant of the county auditor countersigned by the county superintendent, and all warrants, bonds, interest coupons, receipted bills or accounts shall be filed in the office of the county auditor, and in case such school corporation has a bonded indebtedness, it shall be the duty of such board of adjusters to levy a tax upon the property of such district sufficient to create a sinking fund for

the redemption of such bonds upon maturity of the same, such sinking fund to be levied and provided for in compliance with the requirements of such bonds.

## ARTICLE IX.

### VACANCIES.

§ 106. VACANCY IN OFFICE OF STATE SUPERINTENDENT FILLED BY APPOINTMENT.] Should a vacancy occur in the office of State Superintendent of Public Instruction, the Governor shall have power and it shall be his duty to fill such vacancy by appointment, which appointment shall be valid until the next general election.

§ 107. VACANCY IN OFFICE OF COUNTY SUPERINTENDENT, HOW FILLED.] Should a vacancy occur in the office of county superintendent of schools, the board of county commissioners of such county shall have power and it shall be their duty to fill such vacancy by appointment, as provided by law, which appointment shall be valid until the next annual school election. The county auditor shall immediately notify the State Superintendent of such appointment.

§ 108. VACANCY IN OFFICE OF DIRECTOR OR TREASURER, HOW FILLED.] When any vacancy occurs in the office of director or treasurer of a school district, by death, resignation, removal from the district, or otherwise, the fact of such vacancy shall be immediately certified to the county superintendent by the clerk of the school district, and the county superintendent shall immediately appoint, in writing, some competent person, who shall qualify and serve until the next annual school election. The county superintendent shall at the same time notify the clerk of the school district and the county auditor of every such appointment.

§ 109. VACANCY IN OFFICE OF CLERK, HOW FILLED.] Should the office of clerk of the school district become vacant, the school board shall immediately fill such vacancy by appointment, and the president of the board shall immediately notify the county superintendent and county auditor of such appointment.

§ 110. OFFICE, WHEN DEEMED VACANT.] 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.

## ARTICLE X.

### EQUALIZATION OF INDEBTEDNESS.

§ 111. EQUALIZATION OF INDEBTEDNESS, TO BE ARRIVED AT BY ARBITRATION.] After the boundaries of the school district have been established as provided for in this act, all school districts,



or parts of school districts, that existed as school corporations before the taking effect of this act, and that are now included in one school district, shall effect an equalization of property, funds on hand and debts. To effect this each school board of such corporation as shall constitute a school district under the operation of this act shall select one arbitrator, and the several arbitrators so selected, together with the county superintendent, shall constitute a board of arbitration to effect such equalization. If in any case the number of arbitrators, including the county superintendent, should be an even number, the county treasurer shall be included and be a member of said board. The county superintendent shall fix the time and place of said meeting.

§ 112. TAX TO EQUALIZE AND PAY PREVIOUS DEBTS.] Said board shall take account of the assets, funds on hand, the debts properly and justly belonging to or chargeable to each corporation or part of corporation, as it or they existed heretofore, and levy such a tax against each such corporation or part of corporation as will in their judgment, justly and fairly equalize their several interests.

§ 113. MAXIMUM ANNUAL TAX LEVY FOR SUCH PURPOSES.] When the amounts to be levied upon the several corporations or parts of corporations mentioned in the preceding section shall be fixed, a list thereof shall be made wherein the amount shall be set down opposite each such corporation. The whole shall be stated substantially in the form herein required for certifying school taxes, and addressed to the county auditor, and shall be signed by a majority of said board of arbitration; said levy shall be deemed legal and valid upon the taxable property of each such corporation; *Provided, however,* That not more than fifteen (15) mills thereof shall be extended against said taxable property in any one year, and such a levy, not exceeding fifteen (15) mills on the dollar, shall be extended as in this section provided, from year to year, until the whole amount shall be so levied. The county auditor shall preserve such levies, and shall extend the several rates from year to year, as above required by law for district taxes, and the taxes shall be collected at the same time and in the same manner as other taxes are collected.

§ 114. PROCEEDS TO BE TURNED OVER TO THE RESPECTIVE DISTRICTS.] Opposite the several descriptions of property on the tax list shall be entered the school district within which it lies, and all the proceeds of these equalizing taxes shall be collected and paid over to the treasurer of the proper school district within which the property is situated. The proceeds of taxes upon parts of districts lying outside of districts as at present constituted, with which they were equalized, shall be paid to the treasurer of the school district within which the property is situated, the same as hereinbefore provided for regular taxes.

§ 115. MAXIMUM TAX LEVY FOR ALL SCHOOL PURPOSES.] The taxes levied for purposes of equalization shall be, in addition to all other taxes for school purposes; *Provided, however,* That all

taxes for school purposes, including said taxes for equalization, shall not exceed thirty (30) mills in any one year. The provisions of this article shall apply to and govern all school districts and parts of school districts hereafter divided, or consolidated with each other, or with other districts in the division uniting or apportionment of their debts and liabilities or property and assets.

## ARTICLE XI.

### EXAMINATIONS AND CERTIFICATES.

§ 116. QUESTIONS FOR EXAMINATION OF APPLICANTS FOR TEACHERS' CERTIFICATES.] The State Superintendent shall prepare or cause to be prepared all questions for the examination of applicants for teachers' certificates, both county and State, and shall prescribe rules for the conduct of all examinations.

§ 117. PROFESSIONAL CERTIFICATES, WHO ENTITLED.] He shall issue a state certificate to be valid for life, unless sooner revoked, to be known as a professional certificate. Such certificates shall be issued only to those persons of good moral character, who pass thorough examination in all the branches included in the courses of study prescribed for the common and high schools of the State, including methods of teaching and such other branches as the State Superintendent may direct. Such certificate shall in no case be granted unless the applicant has had an experience as a teacher of at least five years, and can satisfy the State Superintendent of his ability to instruct and properly manage any high school of the State. Such certificate shall be valid throughout the State and the holder shall be authorized to teach in any of the common or high schools of the State without further examination; *Provided*, That any person who is a graduate of the four years' normal course in the State University of North Dakota, and has had three years' successful experience as a teacher, may be granted such professional certificate without further examination; *Provided, further*, That if the holder of a professional certificate shall at any time cease to teach, or to be engaged in other active educational work for the space of three years, he shall be liable to a re-examination and to the cancellation of his certificate, subject to the rules to be prescribed by the State Superintendent.

§ 118. NORMAL CERTIFICATE—WHO ENTITLED.] He shall issue a State certificate, to be valid for a term of five years, unless sooner revoked, to be known as a normal certificate. Such certificate shall be issued only to those persons of good moral character who have completed the prescribed course of study in one of the normal schools of the State, or in a normal school elsewhere having an established reputation for thoroughness, but the State Superintendent may examine any such applicant at his discretion. Such certificate shall not be granted unless the applicant shall have taught school successfully not less than two years. Such certificate shall be valid throughout the State, and the holder shall

be authorized to teach in any of the public schools of the State; *Provided*, That any person who is a graduate of the four years' normal course in the State University of North Dakota, and who has had one year's successful experience as a teacher, may be granted such normal certificate without further examination; *Provided, further*, That no State certificate shall hereafter be issued by any normal school in the State.

§ 119. FEE FOR ISSUING CERTIFICATE—CERTIFICATE, HOW REVOKED.] The State Superintendent shall require a fee of five (5) dollars from each applicant for a professional or normal certificate, which fee shall be used by him to aid in the establishment and maintenance of teachers' reading circles in the State. He shall revoke at any time any certificate issued in the State for any cause which would have been sufficient ground for refusing to issue the same had the cause existed or been known at the time it was issued.

§ 120. EXAMINATION OF TEACHERS BY COUNTY SUPERINTENDENTS.] The county superintendent shall hold public examination of all persons over eighteen years of age, offering themselves as candidates for teachers of common schools, at the most suitable place in the county, on the second Friday in January, March, May, July, September and November of each year, and, when necessary, such examination may be continued on the following day, at which times he shall examine them by a series of written or printed questions, according to the rules prescribed by the State Superintendent. If from the percentage of correct answers required by the rules, and other evidence disclosed by the examination, including particularly the superintendent's knowledge and information of the candidate's successful experience, if any, the applicant is found to be a person of good moral character, to possess a knowledge and understanding, together with aptness to teach and govern, which will enable such applicant to teach in the common schools of the State the various branches required by law, said superintendent shall grant to such applicant a certificate of qualification.

§ 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, 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, elemen-

tary geometry and algebra, and book-keeping. 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. 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 Superintendent of the same, shall have his or her papers re-examined by the State Superintendent; the county or city 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 grant, if such answers warrant it, a county certificate for the same.

§ 122. QUALIFICATION OF TEACHERS.] 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; 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; *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 such temporary permission. Any contract made in violation of this section shall be void.

§ 123. FEE FOR CERTIFICATE.] Every applicant for a county certificate shall pay one (1) dollar to the county superintendent, which shall be used by him in the support of teachers' institutes in the county.

§ 124. CERTIFICATES, WHEN REVOKABLE.] The county superintendent is authorized and required to revoke and annul at any time a certificate granted by him or his predecessor for any cause which would have authorized or required him to refuse to grant it if known at the time it was granted, and for incompetency, immorality, intemperance, cruelty, crime against the State law, refusal to perform his duty, or general neglect of the business of the school. The revocation of the certificate shall terminate the employment of such teacher in the school where

he or she may be at the time employed, but the teacher must be paid up to the time of receiving notice of such revocation. The superintendent must immediately notify the clerk of the school district where such teacher is employed, and may notify the teacher through the clerk of such revocation and must enter his action in such case in the books of record of his office.

§ 125. **TEACHERS GIVEN OPPORTUNITY TO MAKE DEFENSE.]** In proceedings to revoke a certificate the county superintendent may act upon his personal knowledge or upon competent evidence obtained from others. In the latter case, action shall be taken only after fair hearing, and the teacher must be notified of the charge and given an opportunity to make a defense, at same time and place stated in such notice. Upon his own knowledge the superintendent may act immediately without notice, after an opportunity has been afforded to the teacher for personal explanation. When any certificate is revoked the teacher shall return it to the superintendent, but if the teacher refuses or neglects so to do, the superintendent may issue notice of such revocation by publication in some newspaper printed in the county.

## ARTICLE XII.

### DUTIES OF TEACHERS.

§ 126. **NOTICE OF OPENING AND CLOSING OF SCHOOL.]** Every teacher on commencing a term of school shall give written notice to the county superintendent of the time and place of beginning such school and the time when it will probably close. If such school is to be suspended for one week or more in said term, the teacher shall notify the county superintendent of such suspension.

§ 127. **WHEN TEACHER NOT ENTITLED TO COMPENSATION.]** No teacher shall be entitled to or receive any compensation for the time he or she teaches in any public school without a certificate valid and in force for such time in the county where such school is taught, except that if a teacher's certificate shall expire by its own limitation within six weeks of the close of a term, such teacher may finish such term without re-examination or renewal of his or her certificate.

§ 128. **TEACHER'S REGISTER, WHAT TO CONTAIN.]** Every teacher shall keep a school register and at the close of each term make a school report, containing the number of visits of the county superintendent, and such items and in such form as shall be required. Such report shall be made in duplicate, one copy of which shall be filed with the district clerk and one copy sent to the county superintendent. No teacher shall be paid the last month's wages in any term until such term report shall be filed with and be approved by the district clerk.

§ 129. **SCHOOL YEAR AND SCHOOL WEEK DEFINED—HOLIDAYS.]** The school year shall begin on the first day of January and close on the thirty-first day of December of each year. A school week

shall consist of five days, and a school month of twenty days. No school shall be taught on a legal holiday or on any Saturday. A legal holiday in term time falling upon a day which otherwise would be a day of school, shall be counted a day of school and the teacher shall be paid therefor, but no teacher shall be paid for Saturday, or be permitted to teach on Saturday to make up for the loss of a day in the term.

§ 130. BRANCHES TO BE TAUGHT IN ALL SCHOOLS.] Every teacher in the common schools shall teach pupils as they are sufficiently advanced to pursue the same the following branches, to-wit: Orthography, reading, spelling, writing, arithmetic, language lessons, English grammar, geography, United States history, physiology and hygiene, giving special instruction concerning the nature of alcoholic drinks, stimulants and narcotics, and their effect upon the human system, physiology and hygiene and the nature of alcoholic drinks, stimulants and narcotics, and their effect upon the human system shall be taught as thoroughly as any branch is taught, by the use of a text book to all pupils able to use a text book, who have not thoroughly studied that branch, and orally to all other pupils. When such oral instruction is given as herein required, a sufficient time not less than fifteen minutes shall be given to such oral instruction for at least four days in each school week. Every teacher in the school in special districts, and in cities organized for school purposes under special law shall conform to and be governed by the provisions of this section.

§ 131. TEACHERS' INSTITUTES, HOW NOTICED—PENALTY FOR FAILURE TO ATTEND INSTITUTE.] When a teachers' institute is appointed to be held for any county, it shall be the duty of the county superintendent to give written or printed notice to each teacher in the public schools of the county, and as far as possible to all others not then engaged in teaching who are holders of teachers' certificates, at least ten days before the opening of such institute of the time and place of holding it; each teacher receiving such notice, engaged in teaching a term of school which includes the time of holding such institute, shall close school during such institute and attend the same, and shall be paid by the school board of the district his or her regular wages as teacher for the time (not less than four days) he or she attended such institute, as certified by the county superintendent or conductor of the institute. No teacher failing to attend such institute shall receive any compensation for the time he or she may have taught during the session of the institute. The county superintendent may revoke the certificate of any teacher in his county for inexcusable neglect or refusal after due notice to attend a teachers' institute held for such county. The provisions of this section shall not apply to teachers in cities organized for school purposes under special law, who are required by the board of education to attend an institute held exclusively for the teachers in such cities.

§ 132. PUPIL MAY BE SUSPENDED FOR CAUSE.] A teacher may suspend from school for not more than five days any pupil for insubordination or habitual disobedience, or disorderly conduct. In such case the teacher shall give immediate notice to the parent or guardian of such pupil, also to some member of the district school board of such suspension and the reason therefor.

§ 133. ASSIGNMENT OF STUDIES TO PUPILS.] It shall be the duty of the teacher to assign to each pupil such studies as he is qualified to pursue, and to place him in the proper class in any studies, subject to the provisions in Section 130 of this article; *Provided*, That in a graded school under the charge of a principal or local superintendent, such principal or superintendent shall perform this duty. In case any parent or guardian is dissatisfied with such assignment or classification, the matter shall be referred to and decided by the county superintendent.

§ 134. BIBLE NOT SECTARIAN BOOK—READING OF OPTIONAL WITH PUPIL.] The Bible shall not be deemed a sectarian book. It shall not be excluded from any public school. It may at the option of the teacher be read in school without sectarian comment, not to exceed ten minutes daily. No pupil shall be required to read it nor be present in the school room during the reading thereof, contrary to the wishes of his parents or guardian, or other person having him in charge. Moral instruction tending to impress upon the minds of pupils the importance of truthfulness, temperance, purity, public spirit, patriotism, and respect for honest labor, obedience to parents and due deference for old age, shall be given by every teacher in the public schools.

### ARTICLE XIII.

#### INSTITUTES, ASSOCIATIONS AND READING CIRCLES.

§ 135. COUNTY INSTITUTE FUND, HOW CREATED.] 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.

§ 136. STATE INSTITUTE FUND—INSTITUTE 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. 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 person to act as conductor of such institute, as in his judgment the needs of the various counties demand.

§ 137. STATE INSTITUTE FUND, 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 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 an institute fund, 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 receipted 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 apportionment for each day its institute is in session. All additional compensation and all incidental expenses of such institute shall be paid out of the county institute fund.

§ 138. ADDITIONAL AID FOR INSTITUTES MAY BE GIVEN BY COUNTY COMMISSIONERS.] The money assigned for any particular institute may be added to any fund furnished for the purpose by any county, and the institute extended as long as the entire fund will allow. If a sufficient county fund be not otherwise provided, the board of county commissioners may appropriate not more than fifty (50) dollars in any county each year in aid of institutes. The State Superintendent may require a statement of the amount of funds the county has on hand for this purpose at any time.

#### ARTICLE XIV.

##### NORMAL INSTRUCTION.

§ 139. STATE SUPERINTENDENT MAY DESIGNATE CERTAIN COLLEGES FOR NORMAL INSTRUCTION.] Until one or more State Normal Schools shall have been established and opened for pupils, the State Superintendent of Public Instruction may designate not to exceed three private colleges or academies in which at the expense of the State as hereinafter provided, professional instruction and training in the science of education, and the art and practice of teaching shall be given to persons preparing to teach in the schools of the State. Such professional instruction and training shall be given only by teachers who as to qualifications are approved by the State Superintendent. A class of not less than ten at any one time shall be so instructed and trained in any such institution, and for not less than ten weeks in any one school term; *Provided*, That no such private universities, colleges or academies shall be so designated, except those which at the time of the taking effect of this act, are giving such professional in-



struction and training in the science of education and art of teaching under the provisions of Chapter 47 of the Session Laws of 1887; *Provided, further*, That all such private universities, colleges or academies shall be entirely non-sectarian in character.

## ARTICLE XV.

### COMPULSORY ATTENDANCE.

§ 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; *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 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.

§ 141. PENALTY.] Any such parent, guardian or other person failing to comply with the requirements of the foregoing section, shall upon conviction thereof, be deemed guilty of a misdemeanor, and shall be fined in a sum not less than five (5) nor more than twenty (20) dollars for the first offense, nor less than ten (10) dollars nor more than fifty (50) dollars for the second and every subsequent offense with costs in each case.

§ 142. NEGLECT OF DUTY, PROSECUTION FOR.] It shall be the duty of the president of the board of education of any city, town or village, or the president of the school board of any district to inquire into all cases of neglect of the duty prescribed in this article, and ascertain from the person neglecting to perform such duty, the reason therefor, if any, and shall forthwith proceed to secure the prosecution of any offense occurring under this article, and any such president neglecting to secure such prosecution for such offense within fifteen days after a written notice has been served by any tax payer in said city, town, or village or district, unless such person so complained of shall be excused by the

board of education or school board for reason hereinbefore stated, shall be deemed guilty of a misdemeanor, and liable to a fine of not less than five (5) nor more than twenty (20) dollars.

§ 143. CHILD LABOR PROHIBITED DURING SCHOOL HOURS.] 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 1 of this article; 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.

§ 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 4, [143] who certifies to any materially false statement therein, shall be fined not less than twenty (20) nor more than fifty (50) dollars and costs.

§ 145. PROSECUTIONS, HOW BROUGHT.] Prosecutions under this article shall be brought in the name of the State of North Dakota, before any court of competent jurisdiction, and the fines collected shall be paid over to the county treasurer, and by him charged to the school fund.

## ARTICLE XVI.

### FINES, FORFEITURES AND PENALTIES.

§ 146. PENALTY FOR NEGLIGENCE OF DUTY OF SCHOOL DIRECTOR, TREASURER OR CLERK.] Every person duly elected to the office of director, treasurer or clerk of any district, who, having entered upon the duties of his office, shall neglect or refuse to perform any duty required of him by the provisions of this act, shall upon conviction thereof be fined in the sum of ten (10) dollars, and the office shall be deemed vacant.

§ 147. PENALTY FOR FALSE ELECTION RETURNS.] Any judge or clerk of election, school district clerk or county auditor, who willfully violates the provisions of this act in relation to elections, or who willfully makes a false return, shall upon conviction be deemed guilty of felony.

§ 148. SCHOOL OFFICERS NOT TO BE INTERESTED IN CONTRACTS OR SPECULATE IN SCHOOL SECURITIES.] 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 fuel and such supplies as are in daily use, but [not] including furniture, or 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.

§ 149. PENALTY FOR UNLAWFUL DRAWING OF SCHOOL MONEY.] Any person who draws money from the county treasury, who is not at the time a duly qualified treasurer of the school corporation for which he draws the money, and authorized to act as such, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be punished by a fine of not less than twenty-five (25) dollars.

§ 150. USE OF SCHOOL FUNDS FOR PRIVATE USE AN EMBEZZLEMENT.] Every treasurer of a district who shall loan any portion of the money in his hands belonging to such district, whether for consideration or not, or who shall expend any portion thereof for his own or any other person's private use, is guilty of embezzlement, and shall, upon conviction, be punished as provided by law, and no such treasurer shall pay over or deliver the school money in his hands to any officer or person, or to any committee, to be expended by him or them; but all public school funds shall be paid out only by the proper treasurer, as hereinbefore provided.

§ 151. PENALTY FOR FAILURE OF TREASURER TO PAY OVER.] If any person shall refuse or neglect to pay over any money in his hands as treasurer of a school district to his successor in office, such successor must, without delay, bring action upon the official bond of such treasurer for the recovery of such money.

§ 152. PENALTY FOR FAILURE TO MAKE PROPER ENDORSEMENT ON UNPAID WARRANTS.] Any violation by a district treasurer of the provisions of this act, requiring endorsement of warrants not paid for want of funds, and the payment thereof in the order of presentation and endorsement, shall be a misdemeanor, punishable by a fine not exceeding one hundred (100) dollars.

§ 153. PENALTY FOR FALSE REPORTS.] Every clerk or treasurer of a district who shall willfully sign or transmit a false report to the county superintendent, or willfully sign, issue or publish a false statement of facts, purporting or appearing to be based upon books, accounts or records or of the affairs, resources and credit of the district shall, upon conviction, be punished by a fine of not exceeding fifty (50) dollars, or by imprisonment not exceeding fifteen days in the county jail.

§ 154. PENALTY FOR FAILURE TO TURN OVER RECORDS TO SUCCESSOR.] Every clerk or treasurer of a district who shall willfully neglect or refuse to deliver to his successor in office all records, books, papers, accounts and all other property belonging thereto,

shall upon conviction, be fined not less than five (5) dollars nor more than fifty (50) dollars; and his successor shall prosecute without delay upon the official bond of such officer for the recovery of all such property. Every treasurer of a district who shall fail, neglect or refuse to deliver to his successor in office all money belonging thereto, shall be deemed guilty of embezzlement of such sum, and upon conviction thereof shall be punished therefor as provided by law.

§ 155. PENALTY FOR WILLFUL DISTURBANCE OF PUBLIC SCHOOL.] Every person, whether pupil or not, who shall willfully molest or disturb a public school when in session, or who shall willfully interfere with and interrupt the proper order or management of a public school, by act of violence, boisterous conduct or threatening language, so as to prevent the teacher or any pupil from performing his duty, or who shall in the presence of the school or school children, upbraid, insult or threaten the teacher, shall, upon conviction thereof, be punished by a fine not exceeding twenty-five (25) dollars, or by imprisonment in the county jail not more than ten days, or both such fine and imprisonment.

§ 156. PROPOSALS FOR CONTRACTS.] No contract, except for teachers' or janitors' wages, for the expenditure of school funds, or money appropriated for any purpose relating to the educational system of this State, or any county, district or school corporation therein, where the amount exceeds one hundred (100) dollars, shall be let until proposals are advertised for, and after such advertisement only to the lowest responsible bidder. Any violation of this section shall be a misdemeanor.

§ 157. FINES AND PENALTIES, HOW COLLECTED.] All fines and penalties not otherwise provided for in this act shall be collected by an action in any court of competent jurisdiction.

§ 158. JURISDICTION OF JUSTICES OF THE PEACE.] Justices of the peace shall have jurisdiction in any case in which a school corporation is a party interested, when the amount claimed by the plaintiff does not exceed two hundred (200) dollars, and the parties shall have a right to appeal, as in other cases. All net proceeds of the fines and penalties collected under the provisions of this act, shall be paid into the county treasury and shall be used and applied each year for the benefit of the common schools of the State.

## ARTICLE XVII.

### BONDS.

§ 159. SCHOOL BONDS, HOW MAY BE ISSUED.] Whenever a duly constituted school district in any organized county in the State at any regular or special meeting held for that purpose, shall determine by a majority vote of all the qualified voters of said school district present at said meeting and voting, to issue school district bonds for the purpose of building and furnishing a school house

and purchasing grounds on which to locate the same, or to fund any outstanding indebtedness, the district school board may lawfully issue such bonds in accordance with the provisions of this act.

§ 160. NOTICE OF ELECTION TO VOTE BONDS.] Before the question of issuing bonds shall be submitted to a vote of the school district, notices shall be posted in at least three public and conspicuous places in said district stating the time and place of meeting, the amount of bonds proposed to be issued, and the time in which they shall be made payable; said notices shall be posted not less than twenty days before the meeting, and the voting shall be done by means of written or printed ballots, and all ballots deposited in favor of issuing bonds, shall have thereon the words, "for issuing bonds;" and those opposed thereto shall have thereon the words, "against issuing bonds," and if a majority of all the votes cast shall be in favor of issuing bonds, the school board, through its proper officer, shall forthwith proceed to issue bonds in accordance with the vote; but if a majority of all votes cast are against issuing bonds, then no further action can be had, and the question shall not be again submitted to a vote for one year thereafter, except for a different amount; *Provided, however,* That the question of issuing bonds shall not be submitted to a vote of the district, and no meeting shall be called for that purpose until the district school board shall have been petitioned in writing by one-third of the voters resident in said school district.

§ 161. DENOMINATION OF BONDS—RATE OF INTEREST—LIMIT OF ISSUE.] The denominations of the bonds which may be issued under the provisions of this act shall be fifty (50) dollars, or some multiple of fifty, not exceeding five hundred (500) dollars, and shall bear interest at the rate of not exceeding 7 per cent. per annum, payable semi-annually in accordance with interest coupons which shall be attached to said bond; and no greater amount than \$1,000 can be issued for any one school house, except in towns and villages of more than 300 inhabitants, and in such districts the amount shall not exceed 4 per cent. of its assessed valuation, and may be made payable in not less than ten nor more than twenty years from their date.

§ 162. BONDS, RECORD OF TO BE KEPT.] Whenever any bonds are issued under the provisions of this act, they shall be lithographed or printed on good bond paper, and shall state upon their face the date of their issue, the amount of the bond, to whom and for what purpose issued, also the time and place of payment and the rate of interest to be paid. They shall have printed upon the margin the words "Authorized by act of the Legislative Assembly of the State of North Dakota, A. D. 1890," and upon the back of the bonds a certificate signed by the county auditor in substantially the following form: "I certify that the within bond is issued in accordance with law, and is within the debt limits permitted by the Constitution of the State of North Dakota, and in

accordance with a vote of....school district at a regular (or special) meeting on the....day of.....A. D. 18.....to issue bonds to the amount of.....dollars." They shall be signed by the president and clerk of the school board and shall be registered and numbered in a book to be kept by the clerk for that purpose, in which shall be entered the number, date and name of the person to whom issued, and the date when the same shall become due.

§ 163. SINKING FUND AND INTEREST TAX.] In addition to the amount that may already be assessed under existing laws, there shall be levied upon the taxable property of the school districts so issuing bonds, and collected as other taxes are collected, a sum sufficient, not exceeding five (5) mills on the dollar of assessed valuation of said districts, to pay interest upon such bonded indebtedness, and after five years in like manner a further tax not to exceed two (2) mills upon the dollar for a sinking fund, to be used in payment of such bonds when they become due, and for no other purpose, except that whenever there may be sufficient funds on hand belonging to such sinking fund, and the school board may, in their discretion, purchase any of its outstanding bonds at their market value and pay for the same out of the sinking fund.

§ 164. BONDS, HOW NEGOTIATED.] Whenever any bonds shall be issued under the provisions of this act, the school district treasurer shall have authority to negotiate and sell such bonds for not less than par, and the proceeds shall be used exclusively for the purpose of building and furnishing a school house, and in payment for a site for the same and for necessary outbuildings.

§ 165. BONDS A LIEN UPON ALL PROPERTY IN DISTRICT WHERE ISSUED.] Bonds issued under the provisions of this act shall be a lien upon the taxable property of the school district issuing them, and when any school board neglects or refuses to levy a tax in accordance with law to meet outstanding bonds or the interest thereon, the county auditor shall have power to levy such tax, and when collected to apply the proceeds to the payment of such coupons and bonds.

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

§ 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 con-

spicuous 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 properly 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.

§ 168. 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.]

## ARTICLE XIX.

### SPECIAL DISTRICTS.

§ 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 (except cities governed by special acts) 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.

§ 170. WHEN ADJACENT TERRITORY MAY BE ATTACHED TO CITY FOR SCHOOL PURPOSES.] When any city, town or village has been organized for school purposes, and provided with a board of education, under any general school law, or a special act, or under the

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\*The words included in brackets were in the bill as passed, but by error of enrollment committee, one sheet containing a portion of Section 167 and all of Section 168, was omitted, and thus does not appear in the bill approved by the Governor and on file with the Secretary of State.

provisions of this article, territory outside the limits thereof but adjacent thereto, may be attached to such city, town or village for school purposes by the board of education thereof, upon application in writing signed by a majority of the voters of such adjacent territory; and upon such application being made, if such board shall deem it proper and to the best interests of the schools of said corporation and the territory to be attached, an order shall be issued by such board attaching such adjacent territory to such corporation for school purposes and the same shall be entered upon the journal of the board; and such territory shall from the date of such order be and compose a part of such corporation for school purposes only, such adjacent territory shall be attached for voting purposes to such corporation, or if the school election is held in wards, to the ward or wards, or election precinct or precincts to which it lies adjacent; and the voters thereof shall vote only for school officers, and upon school questions.

§ 171. BODY CORPORATE.] Every such special district shall be a body corporate for school purposes by the name of "the board of education of the city, town or village (as the case may be) of ..... (here insert the corporate name of the city, town or village) of the State of North Dakota," and shall possess all the powers and duties usual to corporations for public purposes, or conferred upon it by this act or that may hereafter be conferred upon it by law; and in such name it may sue and be sued, contract and be contracted with, and hold and convey such real and personal property as shall come into its possession by will or otherwise; and it shall procure and keep a corporate seal.

§ 172. CONVEYANCE OF SCHOOL PROPERTY, HOW EXECUTED.] Any such city or incorporated town or village is hereby authorized and required, upon the request of the board of education, to convey to said board of education all property within the limits of any such corporation heretofore purchased by it for school purposes, and now held and used for such purposes, the title to which is vested in any such civil corporation. All conveyances for such property shall be signed by the mayor, or president of board of trustees and attested by the clerk of said civil corporation, and shall have the seal of the corporation affixed thereto, and be acknowledged by the mayor or president in the same manner as other conveyances of real estate.

§ 173. SPECIAL SCHOOL DISTRICTS, HOW ORGANIZED.] When a petition signed by one-third of the voters of a city or incorporated town or village, entitled to vote at school elections, is presented to the council or board of trustees thereof asking that said city, town or village be organized as a special school district, such council or board of trustees shall order an election for the purpose, notice of which shall be given and the election conducted and returns made in the same manner as is provided by law for the annual election of municipal officers of such corporation; and



the voters thereof shall vote for or against "organization as a special school district" at such election.

§ 174. ELECTION OF BOARD OF EDUCATION.] If a majority of the votes cast at such elections be "for organization as a special school district," another election shall be called in the same manner as is prescribed in the foregoing section, at which the voters of such city, town or village shall elect five members of the board of education, two of whom shall serve until the first annual election, two until the second annual election, and one until the third annual election thereafter and until their successors are elected and qualified; and their respective terms shall be determined by lot.

§ 175. TERMS OF OFFICE—QUORUM.] The board of education of each special district shall consist of five members, who shall be elected by the legal voters thereof, and shall hold their office for the term of three years and until their successors are elected and qualified, except as provided for first elections under this article, and three members shall constitute a quorum for the transaction of business at any legal meeting.

§ 176. MEMBERS NOT TO BE INTERESTED IN SCHOOL CONTRACTS.] The members of such board shall receive no compensation, and shall not be interested, directly or indirectly, in any contract for making any improvement or repairs, for erecting any building, or for furnishing any material or supplies for their district.

§ 177. ANNUAL AND SPECIAL MEETINGS OF BOARD.] The annual meeting of such board of education shall be on the second Tuesday in July, following the annual election, at which time the newly elected members shall assume the duties of their office. Each board shall meet for the transaction of business as often as once in each calendar month thereafter and may adjourn for a shorter time. Special meetings may be called by the president, or in his absence by any two members of the board, by giving a personal notice to each member of the board, or by causing a written or printed notice to be left at his last place of residence, at least forty-eight hours before the time of such meeting.

§ 178. ORGANIZATION OF BOARD.] At the annual meeting, on the second Tuesday in July each year, such board of education shall organize by electing a president from among its members, who shall serve for one year; and they shall also elect a clerk, not one of their own number, who shall hold his office during the pleasure of the board, and receive such compensation for his services as shall be fixed by such board. In the absence of the president at any meeting, a president *pro tempore* may be elected by the board.

§ 179. DUTIES OF PRESIDENT.] The president shall preside at all meetings of the board, appoint all committees whose appointment is not otherwise provided for, and sign all warrants ordered by the board to be drawn upon the treasurer for school monies, and perform other acts authorized by law.

§ 180. DUTIES OF CLERK—RECORDS.] The clerk shall keep a

true record of all the proceedings of the board, take charge of its books and documents, countersign all warrants for school monies drawn upon the treasurer by order of the board of education and affix the corporate seal thereto, and perform such other duties as the board of education may require. The records, books, vouchers and papers of every such board shall be open to the examination of any tax payer of the district. The said record, or a transcript thereof certified by the clerk and attested by the seal of the board, shall be received in all courts as *prima facie* evidence of the facts therein set forth.

§ 181. POWERS AND DUTIES OF BOARD.] Every such board of education shall have power and it shall be their duty:

First. To establish a system of graded common schools, which shall be free to all children of legal school age residing within such special district, and shall be kept open not less than six nor more than ten months in any year.

Second. To establish and maintain such schools in their city, town or village as they shall deem requisite or expedient, and to change or discontinue the same.

Third. To establish and maintain a high school, whenever in their opinion the educational interests of the corporation demand the same, in which such courses of study shall be pursued as shall be prescribed, or approved by the State Superintendent, together with such additional courses as said board of education may thereafter deem advisable to establish.

Fourth. To purchase, sell, exchange and hire school houses and rooms, lots or sites for school houses, and to fence and otherwise improve them as they may deem proper.

Fifth. Upon such lots and upon such sites as may be owned by such special district to build, alter, enlarge, improve and repair school houses, outhouses and appurtenances as they may deem advisable.

Sixth. To purchase, sell, exchange, improve and repair school apparatus, text books for the use of the pupils, furniture and appendages, and to provide fuel for the schools.

Seventh. To have the custody of all school property of every kind and to see that the ordinances and by-laws of the city, town or village in relation thereto are observed.

Eighth. To contract with, employ and pay all teachers in said schools, and to dismiss and remove for cause any teacher whenever the interests of the schools may require it; but any such teacher shall be required to hold a certificate to teach, issued by the county or State Superintendent, and if any such teacher hold only a county certificate, the board may impose such further acquirements as the best interests of the several grades may require. No person who is a relative of any member of the board shall be employed as teacher without the concurrence of the entire board.

Ninth. To employ, should they deem it expedient, a competent and discreet person as superintendent of schools, and fix and pay

a proper compensation therefor, and such superintendent may be required to act as principal or teacher in such schools.

Tenth. To defray the necessary and contingent expenses of the board, including the compensation of its clerk.

Eleventh. To adopt, alter and repeal, whenever it may deem it expedient, rules and regulations for the organization, grading, government and instruction, and the reception of pupils, and their transfer from one school to another.

Twelfth. Each member shall visit, at least twice in each year, all the public schools in the city, town or village.

Thirteenth. To make after the close of each school year, January first or as soon thereafter as practicable, an annual report of the progress, prosperity and condition, financial as well as educational, of all the schools under their charge, a copy of which, together with such further information as shall be required by the State Superintendent, shall be forwarded to the county superintendent the same as reports are made by other school districts; and said report, or such portion thereof as the board of education shall consider advantageous to the public, shall be printed in a public newspaper in the city, town or village, or in cities, towns and villages of over 800 inhabitants, it may be published in pamphlet form.

Fourteenth. To admit children of persons not living within the special district into the schools of such district, and to fix and collect the tuition therefor, if in their judgment the best interests of the school will permit.

Fifteenth. To cause an enumeration of the children of school age within the special district, including those residing within any territory thereto attached for school purposes, to be made annually, as provided for other school districts, and return the same to the county superintendent.

§ 182. MONIES, HOW PAID OVER.] All monies, from whatever source, which the board of education of any special district shall be by law authorized to receive, shall be paid over to the treasurer of such board and he shall charge the same to the proper funds.

§ 183. SUPERVISORS OF SCHOOLS OF SPECIAL DISTRICT.] The schools of every special district shall be under the immediate supervision of the board of education, or the school superintendent appointed by such board, subject to such general directions and supervision by the county superintendent as are provided for in this act.

§ 184. TAXABLE PROPERTY.] The taxable property of the whole school corporation including the territory attached for school purposes, shall be subject to taxation. All taxes collected for the benefit of the schools shall be paid in money, and shall be placed in the hands of the treasurer, subject to the order of the board of education.

§ 185. ANNUAL SCHOOL TAX.] The board of education shall, on or before the 20th day of July of each year, levy a tax for the

support of the schools of the corporation, including any expenditures allowed by law, for the fiscal year next ensuing, not exceeding in any one year thirty (30) mills on the dollar on all personal, mixed and real property within the district which is taxable according to the laws of the State, the amount of which levy the clerk of the board shall certify to the auditor or county clerk, who is hereby authorized and required to place the same on the tax roll of said county, to be collected by the treasurer of the county as other taxes, and paid over by him to the treasurer of the board of education, of whom he shall take a receipt in duplicate, one of which he shall file in his office and the other he shall forthwith transmit to the clerk of the board of education.

§ 186. EXPENDITURES—CONTRACTS.] No expenditures involving an amount greater than one hundred (100) dollars shall be made except in accordance with the provisions of a written contract, and no contract involving an expenditure of more than five hundred (500) dollars for the purpose of erecting any public buildings or making any improvements shall be made except upon sealed proposals and to the lowest responsible bidder, after public notice for ten days previous to receiving such bids.

§ 187. TREASURER.] The treasurer of any city, town or village comprising a special district shall be treasurer of the board of education thereof.

§ 188. TREASURER, DUTIES OF.] The treasurer of every board of education shall keep a true account of the receipts and expenditures of the various funds separately; and shall prepare and submit in writing a quarterly report of the state of the finances of the district; and shall, when required, produce at any meeting of such board or any committee appointed for the purpose of examining his accounts, all books and papers pertaining to his office. He shall safely keep in his possession or under his control all school moneys coming into his hands, and shall pay out such moneys only upon a warrant signed by the president, countersigned by the clerk and attested by the corporate seal of such board of education.

§ 189. TREASURER'S BOND.] The treasurer of the board of education shall execute a bond to such board, with sufficient sureties to be approved by the board, in such sum and as such board may from time to time require, as near as can be ascertained, in double the amount of the monies likely to come into his hands, conditioned for the faithful discharge of his duties as treasurer; which bond shall be in addition to his other bonds to the city, town or village. In case of the failure of the city, town or village treasurer to give such bond within ten days after being required to do so by such board of education, such treasurer's office shall become vacant, and the council or board of trustees of such city, town or village shall appoint another person in his place, who shall give such additional bond.

§ 190. EQUALIZATION OF SCHOOL DEBTS AND PROPERTY.] When

any board of education shall be organized under the provisions of this article, it shall after the equalization hereinafter provided for assume control of the schools of the city, town or village, and shall be entitled to the possession of all property of the former district or districts or parts thereof lying within such city, town or village, for the use of schools; such board shall also be entitled to its due proportion of all monies on hand and taxes already levied but not collected, and shall be liable for a proper amount of the debts and liabilities of such former district, to be determined in the same manner as provided in this act for the equalization, determination and division of the debts, property and assets of school districts consolidated or divided.

§ 191. WHEN SPECIAL DISTRICT MAY DISSOLVE OR BECOME PART OF GENERAL DISTRICTS.] Any special district organized under the general school laws and provided with a board of education may become a part of the school district in which it is located whenever it is so decided by a majority vote of the school electors of the city, town or village and of such school district voting at an election called for that purpose. An election for such purpose shall be ordered and proper notice thereof given by the board of education and the school board of such district in the same manner as is required for the election for school officers in such district, when petitioned by one-third of the voters resident in such districts, and when so united the determination and division of the debts, property and assets shall be made by arbitration as provided in this act for school districts consolidated or divided. Towns and villages not incorporated but heretofore organized under the general school laws and provided with a board of education shall become a part of the school district in which they are severally located and the determination and division of the property, debts and assets shall be made by arbitration as aforesaid.

§ 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 (excluding cities organized under special acts) 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 supercede the members of the boards 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 member elected shall serve for a term of three years, beginning with the second Tuesday of 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.

§ 193. COUNTY SUPERINTENDENTS, WHEN ELECTED.] At such election on the third Tuesday in June, 1890, and biennially thereafter, the school voters in such city, town or village, shall also vote for a county superintendent of schools for the county, whose term of office shall be as elsewhere provided in this act.

§ 194. NOTICE OF ELECTION.] Such election shall be called by the board of education of any such special district, who shall cause notice thereof to be posted or published as is required by law for the annual election of civil officers in the city, town or village comprising such special district; such notice shall be signed by the clerk, or, in his absence, by the president of the board of education of such district, and shall state the time and place of holding such election and what officers are to be elected and their terms, and shall be substantially the following form, to-wit:

Notice is hereby given, that on Tuesday, the.....day of June, A. D.....an annual election will be held at . . . . .(here insert polling place) for the purpose of electing the following members of the board of education..... (here insert terms for which they are to be elected) for the city, town or village of.....(here insert name) and in even numbered years, a county superintendent of schools, and the polls will be opened at 9 o'clock a. m. and closed at 4 o'clock p. m. of that day.

By order of the board of education.

Signed.....

Clerk.

§ 195. ELECTION PRECINCTS.] At least fifteen days prior to such election, the board of education of each special district shall designate one polling place, and appoint two persons to act as judges and two persons to act as clerks. Before opening the polls each of said judges and clerks shall take an oath that he will perform his duties as judge or clerk (as the case may be) according to law and to the best of his ability, which oath may be administered by any officer authorized to administer oaths or by either of said judges or clerks to the others.

§ 196. CANVASS OF RETURNS.] Such election shall be conducted and the vote canvassed in the same manner as is provided by law for elections of county officers in this State, and returns shall be made of the number of votes cast for each person for any office, which shall be signed by the judges and clerks of election, and the person receiving the highest number of votes for each office in the district, shall be declared elected, and the returns shall be filed with the clerk of the board of education within two days thereafter. A return of the votes cast for each person for county superintendent of schools shall be sealed in an envelope and forwarded by such judges of election to the county auditor, within ten days

after such election, to be canvassed by such county auditor with the returns from the other districts in the county.

§ 197. CERTIFICATES OF ELECTION.] The clerk of the board of education shall give to each person elected at such election, a certificate stating that he was elected as a member of the board of education, and the time he is to take the oath and enter upon the duties of his office. Such clerk shall also certify to the county superintendent of schools, the persons so elected and their terms as soon as possible.

§ 198. VACANCIES, HOW FILLED.] The board of education of each city, town or village shall have power to appoint a person to fill any vacancy which may occur in that body; and such appointee shall hold his office until the next annual school election, at which time a person shall be elected to serve the unexpired term; but if such vacancy shall occur within ten days before an annual election, such appointee shall hold office until the annual election of the following year. When any such appointment shall be made the clerk shall certify the same to the county superintendent.

§ 199. OATH.] Before entering upon the duties of his office, each person elected or appointed to be a member of the board of education as provided in this article, shall take an oath or affirmation that he will support the Constitution of the United States and the Constitution of the State of North Dakota, and that he will faithfully discharge the duties of his office as member of such board, according to law and to the best of his ability; which oath shall be filed with the clerk of the board of education.

§ 200. BONDS, HOW AND WHEN MAY BE ISSUED.] Whenever the taxes authorized by law shall not be sufficient or shall be deemed by the board of education to be burdensome, bonds may be issued and negotiated for the purpose of raising money to purchase a site or sites or to erect a suitable building or buildings thereon, or to fund any outstanding indebtedness of the school corporation; *Provided*, That the issuance of such bonds shall be authorized by the voters of the special district as hereinafter prescribed. Such bonds shall be signed by the president and clerk and attested by the corporate seal of the board of education, shall bear the date of their issue, and be payable in not less than five nor more than twenty years from their date, at such place as shall be designated upon their face; and such bonds shall be in denominations, not less than one hundred (100) dollars, shall bear interest at not more than seven per cent. per annum, payable semi-annually on the first day of January and July in each year, shall show upon their face that they are issued for school purposes, and shall be sold at not less than par; and each bond shall have endorsed thereon a certificate of the clerk of such board of education, that said bond is issued pursuant to law, and is within the debt limit prescribed by the Constitution of the State.

§ 201. BOND ELECTION.] Before issuing any such bonds, it will be the duty of the board of education to call an election,

notice of which shall be given in the same manner as is prescribed by law for giving notice of the annual election of the civil officers of the city, town or village comprising the special district, except that such notice shall be given twenty days before such election, and to submit to the voters of such corporation at such election the question of issuing such bonds. Such election shall be conducted and returns made in the same manner as at the annual election of members of the board of education, and may be at the annual school election or at any other time named in the notice thereof. The notice of such election shall clearly state the amount of the bonds asked for, the time in which they shall be made payable, and the purpose for which they are to be issued, and the time and place such election will be held. At such election the voters shall have written or printed on their ballots, "for issuing bonds" or "against issuing bonds;" and if a majority of the votes cast be "for issuing bonds," such bonds shall be issued and negotiated by such board of education, but if a majority thereof be not "for issuing bonds," such bonds shall not be issued, nor shall the question be again submitted for one year thereafter except for a different amount and then only upon the written petition of a majority of the school voters of the special district.

§ 202. WHAT BONDS TO SPECIFY—DEBT LIMIT.] The bonds, the issuance of which is provided for in the foregoing section, shall specify the rate of interest and the time when principal and interest shall be paid; but no corporation shall issue bonds in pursuance of this article in any sum greater than 5 per cent. of its assessed valuation, including other debts.

§ 203. LEVY FOR INTEREST AND SINKING FUND.] The board of education at the time of its annual levy of taxes for the support of schools, as hereinbefore provided, shall also levy a sufficient amount to pay the interest as the same accrues on all bonds issued under the provisions of this article, and also to create a sinking fund for the redemption of said bonds, which it shall levy and collect in addition to the rate per cent. authorized by the provisions aforesaid, for school purposes, and said amount of funds, when paid into the treasury, shall be and remain a specific fund for said purpose only, and shall not be appropriated in any other way except as hereinafter provided. At or before the issuance of any bonds as herein provided, the board shall by resolution provide for such annual levy to pay the interest and to create such sinking fund, and such resolution shall be irrevocable until all such bonds and the interest thereon shall have been paid.

§ 204. INVESTMENT OF SINKING FUND.] All monies raised for the purpose of creating a sinking fund for the final redemption of all bonds issued under this article, shall be invested annually by the board of education in the bonds of the State of North Dakota, or of the United States, or the board may buy and cancel the bonds of the district.

§ 205. INTEREST.] Whenever the interest coupons of the



bonds hereinbefore authorized shall become due, they shall be promptly paid upon presentation, by the treasurer, out of money in his hands collected for that purpose, and he shall endorse upon the face of such coupons, in red ink, the word "paid," and the date of payment, and sign the initials of his name.

§ 206. SECURITY.] The school fund and property of such school corporation and territory attached for such purposes, is hereby pledged to the payment of the interest and principal of the bonds mentioned in this article, as the same may become due.

§ 207. BOND REGISTER.] It shall be the duty of the clerk of the board of education to register in a book provided for that purpose the bonds issued under this article, and all warrants issued by the board, which said register shall show the number, date and amount of said bonds, and to whom made payable.

§ 208. REPEAL.] All acts and parts of acts in conflict with this act or any of the provisions of this act are hereby repealed.

§ 209. EMERGENCY.] This act to take effect and be in force from and after July 1, 1890; *Provided*, That an emergency exists in that the present existing school laws provide for an annual election in June, 1890, and that the result of such election under the existing laws will not conform to the requirements of this act, neither in the name or character of the offices to be filled, nor in the corporations for which officers are to be elected, therefore, that portion of this act which provides for the change of the organization or boundaries of school corporations, and for election of school officers therein, shall take effect and be in force from and after May 1, 1890.

Approved March 20, 1890.

## CHAPTER 63.

[H. F. 63.]

### DUTIES AND POWERS OF SUPERINTENDENT OF PUBLIC INSTRUCTION.

AN ACT to Define the Powers and Duties of the State Superintendent of Public Instruction.

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

§ 1. SUPERINTENDENT OF PUBLIC INSTRUCTION.] The general supervision and control of public instruction in the State of North Dakota shall be vested in the State Superintendent of Public Instruction, whose powers and duties shall be such as are provided by law.

§ 2. REPEAL OF CONFLICTING LAW.] Section 1 of Chapter 44 of the Session Laws of 1883 of the Territory of Dakota, as

amended by Section 1 of an act entitled "An act to amend Chapter 44 of the Session Laws of 1883, relating to education," approved March 11, 1887, is hereby repealed.

§ 3. POWERS AND DUTIES.] All the powers and duties heretofore conferred and devolved upon the Territorial Board of Education by any existing law are hereby conferred and devolved upon the State Superintendent of Public Instruction.

§ 4. REPEAL.] All laws and parts of laws inconsistent or in conflict with the provisions of this act are hereby repealed.

§ 5. EMERGENCY.] Whereas, an emergency exists in this, to-wit: That there are certain powers and duties needful to the proper and necessary supervision and control of public instruction in the State, which under laws heretofore existing can be exercised and performed only by the Territorial Board of Education, which board by this act is abolished, this act shall take effect and be in force from and after its passage and approval.

Approved January 23, 1890.

## CHAPTER 64.

[S. F. 135.]

### TO ESTABLISH INDEPENDENT SCHOOL DISTRICTS.

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. INDEPENDENT SCHOOL DISTRICTS, HOW ORGANIZED.] Any city heretofore organized for school purposes under special laws, and provided with boards of education, may become incorporated as an independent school district under the provisions of this act in the manner following: Whenever one-eighth of the legal voters of such city, voting at the preceding municipal election shall petition the mayor and council thereof to submit the question as to whether such city shall establish an independent school district under this act to a vote of the electors in such city, it shall be the duty of such mayor and council to submit such question accordingly and to appoint a time and place or places at which such vote may be taken and to designate the persons who shall act as judges at such election, but such question shall not be submitted oftener than once in two years.

§ 2. NOTICE OF ELECTION.] The mayor of such city shall give at least twenty days notice of such election by publishing a notice

thereof in one or more newspapers within such city, but if no newspaper is published therein, then by posting at least five copies of such notice in each ward or voting precinct.

§ 3. The ballots to be used at such election shall be in the following form: "For establishing an independent school district under an act approved March . . . . . 1890," or "Against establishing an independent school district under an act approved March . . . . . 1890." The judges of such election shall make returns thereof to the city council, whose duty it shall be to canvass such returns, and cause the result of such canvass to be entered upon the records of such city. If a majority of the votes cast at such election shall be for establishing an independent school district under this act, such independent school district shall thenceforth be deemed to be organized under this act, and the board of education then in office, shall thereupon exercise the powers conferred upon like officers in this act until their successors shall be elected and qualified.

§ 4. BOUNDARIES OF INDEPENDENT DISTRICT.] That all that portion included within the corporate limits of any city within this State together with the additions that are now or may be hereafter added to said city limits, shall be and are hereby constituted and established as an independent school district to be designated as the "independent school district, city of . . . . .," and a board of education is hereby established for the same.

§ 5. Said board of education shall consist of one member from each ward in said city, and when the city is divided into an even number of wards, then the said city shall elect one member of said board at large; said members shall hold their office for the terms of two years or until their successors are elected and qualified. A majority of said board shall constitute a quorum to transact business, but a smaller number may meet and adjourn. The electors in each ward in said city shall elect one member of said board, and the electors of the said city shall elect one member of the said board at large. The wards having even numbers shall hold their election in each year ending with an even number, and the wards having odd numbers shall hold their election in the years ending with odd numbers. The member at large shall be elected biennially in the even numbered years.

§ 6. DATE OF ELECTION—CANVASS OF VOTES.] The election referred to in the foregoing section shall be held on the third Monday of April in each year, and shall be held at the usual polling place for municipal elections in each ward. The mayor of the city shall have authority and is hereby empowered to appoint two judges and one clerk of said election, who shall open the polls at the hour of eleven o'clock in the forenoon and shall hold the same open until five o'clock in the afternoon of the same day. The said judges and clerk shall conduct the said election, and the said election shall be carried on in the same manner and form in all respects, and the said polls closed and votes canvassed the

same as municipal elections, and the said judges shall have the same power and authority in all and every respect as the judges of election for municipal officers, and after the said vote is canvassed, the said judges shall make their return to the city clerk or auditor as the case may be of the said city, within twenty-four hours from the time of closing said polls, and the city council shall canvass said returns within three days thereafter and declare the result, which shall be placed upon the records of said city, and it shall be the duty of the city clerk or auditor to issue certificates of election to the persons declared elected. The judges and clerks of election shall receive the same compensation for their services as at municipal elections for mayor and aldermen

§ 7. VACANCIES—HOW FILLED.] If any vacancy shall occur in said board for any cause, the remaining members of said board shall fill such vacancy by appointment, until the next annual election, and at such election a new member shall be elected to fill the unexpired term only.

§ 8. STYLE AND POWERS OF BOARD.] The board so elected shall be a body corporate in relation to all the powers and duties conferred upon them by this act, to be styled "The Board of Education of Independent School District, City of.....(here insert the name of city)" and as such shall have powers to sue and be sued, to contract and be contracted with, and shall possess all the powers usual and incident to such bodies corporate, and as shall be herein given, and shall procure and keep a common seal. At each annual meeting of the board the members thereof shall elect one of their members as president of said board, and whenever he shall be absent, a president *pro-tempore* shall be appointed, who shall preside during such absence. The members so elected shall each qualify by taking the prescribed oath of office within ten days from the time of receiving aforesaid certificate of election, and shall assume the duties of the office at the annual meeting of the board, which shall be held on the first Monday in May of each year.

§ 9. RESPONSIBILITY OF BOARD.] The members of the board shall receive no compensation, nor shall be interested, directly or indirectly, in any contract for building or making any improvements or repairs provided by this act. They shall have the care and custody of all the public property in said district pertaining to school purposes, and the general management and control of all school matters.

§ 10. MEETINGS OF BOARD.] The regular meetings of said board shall be held on the first Tuesday of each month; the board may also hold a special meeting upon notice. The regular meetings may be adjourned for any time shorter than one month. Special meetings shall be called by the president, or in case of his absence or inability to act, by any three members of the board, as often as necessary by giving a personal notice in writing to each member of the board, or by causing such notice to be left at his

place of residence at least forty-eight hours before the hour of such special meeting.

§ 11. SECRETARY—HIS DUTIES.] The said board shall appoint a secretary, who shall hold his office during the pleasure of the board, and whose compensation shall be fixed by the board. The secretary shall keep a record of the proceedings of the board, and perform such other duties as the board may prescribe. The said record, or transcript thereof, certified by the secretary and attested by the seal of the board, shall be received in all courts as *prima facie* evidence of the facts therein set forth; and such records, and all books, accounts, vouchers and papers of said board shall at all times be subject to the inspection of the members of said board, or any committee thereof, or any tax payer of said district. For the purposes of economy the said board, if they deem it advisable, may appoint one of their own members secretary. The annual report of the secretary shall contain such items as may be required by the educational department of the State.

§ 12. POWERS OF BOARD.] The said board of education of said district shall have power, and it shall be their duty to levy and raise from time to time by tax such sums as may be determined by said board of education to be necessary and proper for any and all of the following purposes:

1. To purchase, exchange, lease or improve sites for school houses.
2. To build, purchase, lease, enlarge, alter, improve and repair school houses and their out-houses and appurtenances.
3. To purchase, exchange, improve and repair school apparatus, books, furniture and appendages.
4. To procure fuel and defray the contingent expenses of the board, including the expenses of the secretary.
5. To pay teachers' wages after the application of public monies which may be by law appropriated and provided for that purpose.

§ 13. COLLECTION OF TAX.] The tax so to be levied as aforesaid and collected by virtue of this act, shall be collected in the same manner as other county taxes; and for that purpose, the said board of education shall have power to levy and cause to be collected such taxes as are herein authorized, and shall cause the amount for each purpose to be certified by the secretary to the county auditor in the time to be added to and put upon the annual tax list of the county; and it shall be the duty of the county auditor to calculate and extend upon the annual assessment roll and tax list such tax so levied by said board, and such tax shall be collected as other county taxes are collected.

§ 14. AMOUNT RAISED TO BE LIMITED.] The amount raised for teacher's wages and contingent expenses, shall be only such as together with the public monies, coming to said district from the State and county fund, and other sources, shall be sufficient to maintain efficient and proper schools for the children of said dis-

tract. Nor shall the taxes for the purchasing, leasing or improving sites, and the building, purchasing, leasing, enlarging, altering or repairing of school houses, exceed in any one year two (2) cents on the dollar of valuation of the taxable property of said district, and the same board of education are authorized and directed, when necessary to borrow in anticipation, the amount of the taxes so to be raised, levied and collected as aforesaid.

§ 15. AUTHORITY GIVEN TO ISSUE BONDS.] The board of education of said district are authorized and empowered, and it shall be their duty, whenever the said board shall deem it necessary in order to an efficient organization and establishment of schools in said district, and when the taxes authorized by this act shall not be sufficient, or shall not be deemed by said board burdensome upon the tax payers of said district, from time to time to issue bonds of said district in denomination not less than one hundred (100) dollars, payable ten 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 the 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.

§ 16. MONIES OF DISTRICT TO BE PAID TO CITY TREASURER.] All monies to be raised pursuant to the provisions of this act and all school monies which shall by law be appropriated to or provided for said district, shall be paid over to the treasurer of the city....., and the county treasurer of..... shall from time to time, as he shall receive the county school funds, and at least once in each month, on the first Monday thereof, pay over to said city treasurer the proportion thereof belonging to said district, and for that purpose said board shall have power to cause all needful steps to be taken, including census reports, or other acts or things, to enable said board to receive the school money belonging to said district, as full and completely as though said district formed one of the school districts of the county where the same may be situated.

§ 17. BOND OF TREASURER.] The treasurer of said city shall give such bond to said board of education in such sums and with such conditions and securities as they shall from time to time require, in order to insure the safe keeping of the school funds, which shall be in addition to his other bonds; and the said treasurer and his sureties upon such bond shall be accountable to the board for the monies that come into his hands, and in case of

failure of such treasurer to give such bonds when required thereto by such board, within ten days thereafter, such treasurer's office shall become vacant, and the city council of said city shall appoint another person in his place.

§ 18. SCHOOL FUNDS.] All monies required to be raised by virtue of this act shall be paid in cash or in the warrants hereinafter provided, drawn on the school fund only, and such monies and all monies received by said district for the use of the common schools therein, shall be deposited for safe keeping thereof with the treasurer of said city to the credit of the board of education, and shall by him be safely kept separate and apart from any other funds of said city, until drawn from said treasurer as herein provided. The treasurer shall pay out the monies authorized by this act, to be received by him upon warrants drawn by the president, countersigned by the secretary and attested by the seal of the said board of education.

§ 19. POWERS OF BOARD.] The said board shall have power to and it shall be their duty:

1. To organize and establish such and so many schools in said district as they shall deem requisite and expedient, and to change and discontinue the same.

2. To purchase, sell, exchange and hire school houses and rooms, lots or sites for school houses, and to fence and improve them as they may deem proper.

3. Upon such lots and upon such sites as now are owned by said school district, to build, enlarge, alter, improve and repair school houses, outhouses and appurtenances, as they may deem advisable.

4. To purchase, sell exchange, improve and repair school apparatus, books for indigent pupils, furniture and appendages, and to provide fuel for schools.

5. To have the custody and safe keeping of the school houses, outhouses, books, furniture and appurtenances, and to see that the ordinances of the city council in relation thereto are observed.

6. To contract with, license and employ all teachers in said schools, and at their pleasure to remove them.

7. To pay the wages of such teachers out of the money appropriated and provided by law for the support of common schools in said district, so far as the same shall be sufficient, and the residue thereof from the money authorized to be raised by this act.

8. To defray the necessary and contingent expenses of the board, including the compensation of the secretary.

9. To have in all respects the superintendence, supervision and management of the common schools of said district, and from time to time to adopt, alter, modify and repeal, as they may deem expedient, rules and regulations for their organization, grading, government and instruction, for the reception of pupils

and their transfer from one school to another, and generally for their good order, prosperity and utility.

10. To prepare and report to the city council of the city of . . . . . such ordinances and regulations as may be necessary and proper for their protection, safe keeping, care and preservation of school houses, lots and sites, and appurtenances and all the property belonging to the district connected with or appertaining to the schools within the city limits and to suggest proper penalties for the violation of such ordinances and regulations, and annually, on or before the first Monday in July of each year, to determine and certify to the county auditor of said . . . . . county the rate of taxation in their opinion necessary and proper to be levied under the provisions of this act, for the year commencing on the first day of July thereafter, and also at any time to determine how many and what denomination of bonds shall issue and be sold to pay the extraordinary outlays required.

§ 20. VISITING SCHOOLS.] Each member of said board shall visit all the public schools in said district at least twice in each year of his official term, and the said board shall provide that each of said schools shall be visited by a committee of three or more of their number at least once during said term.

§ 21. NON-RESIDENT PUPILS.] Said board of education shall have power to allow the children not resident in said district, to attend the schools of said district under the control and care of said board, upon such terms as said board shall prescribe, fixing the tuition which shall be paid therefor.

§ 22. EXPENDITURES NOT TO EXCEED MONIES RAISED.] It shall be the duty of the board in all their expenditures and contracts, to have reference to the amount of money which shall be subject to their order during the current year for the particular expenditures in question and not to exceed that amount.

§ 23. TITLE TO SCHOOL HOUSES, GROUNDS, ETC.] The title of the school houses, lots, furniture, books, apparatus and appurtenances and all other property belonging to any such independent school district shall be vested in the independent school district for the use of the schools, and the same while used and appropriated for school purposes shall not be levied upon or sold by virtue of any warrant or execution or other process, nor be subject to any judgment or mechanic's lien or taxation for any purpose whatever; and the said district in its corporate capacity shall be able to take, hold and dispose of any real or personal estate transferred to it by gift, grant, bequest or devise for the use of common schools of said district, whether the same be transferred in terms to said district by its proper style or by designations, or to any person or persons or body for the use of said schools.

§ 24. REAL PROPERTY, TITLE, HOW CONVEYED.] Whenever any property is purchased by the said board, the transfer or grant and conveyance therefor shall be taken to the "independent school district, city of . . . . ., State of North Dakota, for the use of



schools," and whenever any sale is made by said board, it shall be so resolved, which resolution shall be spread upon the records of said board, and the conveyance therefor shall be executed in the name of said district by the president of said board, attested by the secretary of said board, and under the seal thereof, and acknowledged by said president and secretary. And said president and secretary shall have full authority and power to execute conveyances upon such sale or exchange with or without covenants of warranty on behalf of said district.

§ 25. REPORT OF CITY TREASURER.] It shall be the duty of the city treasurer, at least fifteen days before the annual election for members of said board, in each year, and as often as called upon by said board, to prepare and report to the board of education true and correct statements of the receipts and disbursements of monies under and in pursuance of the provisions of this act, during the preceding year, which accounts shall be stated under appropriate heads:

1. The money raised by the board under Section 12 of this act.
2. The school monies received from the county treasurer.
3. The money received under Section 15 of this act.
4. All monies received by the city treasurer, subject to the order of the board, specifying the sources from which they shall have been derived.
5. The manner in which sums of money shall have been expended, specifying the amount under each head of expenditures, and the board of trustees shall, at least one week before such election, cause the same to be published in all the newspapers of the said city which will publish the same gratuitously.

§ 26. CITY COUNCIL TO PASS CERTAIN ORDINANCES.] The city council shall have the power and it shall be their duty to pass such ordinances and regulations as the said board of education may report, as necessary for the protection, preservation, safe keeping and care of the school houses, lots, sites appurtenances and appendages, libraries and all necessary property belonging to or connected with the schools of said city, and to impose proper penalties for the violation thereof; and all penalties shall be collected in the same manner that the penalties for the violation of city ordinances are by law collected, and when collected shall be paid to the treasurer of the city to the credit of the said board of education, and shall be subject to their order as herein provided.

§ 27. FORFEIT WHEN PERSONS REFUSE TO SERVE AS MEMBERS OF THE BOARD.] It shall be the duty of the clerk of said board immediately after the election of any person as a member of said board of education, personally or in writing to notify him of his election, and if any such person shall not, within ten days after receiving such notice of election, take and subscribe the oath as herein provided, and file the same with the said auditor, the board of education may consider it as a refusal to serve, and proceed to fill the vacancy occasioned by such refusal, and the person so refus-

ing shall forfeit and pay to the city treasurer, for the benefit of the schools of said district, a penalty of fifty (50) dollars, which may be recovered in the name of said city in a civil action.

§ 28. NEW DISTRICT TO ASSUME DEBTS OF OLD.] All obligations and liabilities incurred by independent school district of any such city, county of....., shall be assumed by the school district herein created.

§ 29. All acts and parts of acts inconsistent with the provisions of this so far as those districts organized under this act are hereby repealed.

Approved March 31, 1890.

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## CHAPTER 65.

[S. F. 102.]

### PROVIDING FOR ELECTION OF BOARDS OF EDUCATION IN CERTAIN CITIES.

AN ACT Providing for the Election of Boards of Education in Cities not Organized Under the General Law.

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

§ 1. BOARDS TO BE ELECTED AT LARGE.] In every city not organized under the general law there shall be a board of education consisting of seven members, having the qualifications of electors, who shall be elected by the electors of such city at large, qualified to vote at school elections and except as may be otherwise provided herein for the first election, two members of such board shall be elected [annually], three tri-annually at a special election to be held on the first Tuesday after the first Monday in June; *Provided*, That the provisions of this act shall not apply to cities existing under a special enactment incorporating the same and which are now conducting its schools under the general common school laws.

§ 2. TERM OF OFFICE.] The term of office of members of the boards of education, except as in this act otherwise provided, shall be three years, and they shall hold their office until their successors are elected and qualified.

§ 3 DATE OF FIRST ELECTION—TERMS OF OFFICE DECIDED BY LOT.] The first election shall be held on the third Tuesday after the first Monday in June, 1890; and immediately after the first election under this act, the members of the boards of education shall be classified by lot so that three members shall hold their

office for the term of three years, two members for the term of two years, and two members for the term of one year. The lots shall be drawn by the members, who shall for that purpose assemble at the city hall or at the place of meeting of the city council in said cities, and they shall cause the result thereof to be certified to the mayor and filed in the office of the city clerk.

§ 4. ELECTIONS, HOW CONDUCTED.] All elections under the provisions of this act shall be called, conducted, canvassed and returned in the same manner as is now provided by law for general city elections.

§ 5. ELIGIBILITY OF MEMBER OF SCHOOL BOARD.] No son, wife or daughter of any member of the school board shall be eligible to a position as teacher in schools of the district which said member represents.

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

§ 7. EMERGENCY.] An emergency exists in this, that in order to make this act operative for the ensuing year, it will be necessary that the election provided for by Section 3 be had; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved February 24, 1890.

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## ESTRAYS.

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### CHAPTER 66.

[H. F. 28.]

#### PROVIDING MANNER OF TAKING UP AND ADVERTISING ESTRAYS.

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##### AN ACT Providing for the Retention and Disposal of Estrays.

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

§ 1. ESTRAYS, WHO MAY TAKE UP.] No person shall take up an estray animal except in the county wherein he or she resides, and is a householder or holds a claim under the pre-emption or homestead laws, nor unless the same be found in the vicinity of his or her claim or place of residence.

§ 2. WHEN ESTRAYS MAY BE TAKEN UP.] No person shall take up an estray animal mentioned in the next section between the

first day of November and thirty-first day of March inclusive, unless the same be found trespassing upon the premises or within the enclosure of the person taking up the same.

§ 3. NOTICE OF TAKING UP ESTRAY.] Every person who shall take up any estray horse, mare, colt, mule, ass or any head of neat cattle, sheep, hog or goat, shall within fifteen days thereafter give notice of the finding and taking up of such animal, by publishing three times in a weekly newspaper, if there be such paper published in the county in which the estray is taken up; if not, in the nearest newspaper, which advertisement shall give a description of said estray, and the marks and brands thereon. Any person or persons taking up property as herein described and failing to advertise shall be guilty of a misdemeanor.

§ 4. OFFICIAL ESTRAY PAPER OF THE STATE.] It shall be the duty of such newspaper to transmit, if said property is uncalled for while being published in a local paper the third insertion of such advertisement to such newspaper published weekly in the State of North Dakota as the Governor shall designate as the official newspaper, in which all the estray notices of North Dakota shall be published once, and any failure on the part of the proprietor of such local paper shall be a misdemeanor.

§ 5. COUNTY AUDITORS TO KEEP ESTRAY PAPER ON FILE.] It shall be the duty of the official estray paper to transmit one copy weekly to the office of the county auditor of each county in North Dakota, and the county auditor shall keep on file all copies of such official estray paper.

§ 6. FEE FOR ESTRAY PAPER.] The board of county commissioners of each county in the State of North Dakota shall on the first Monday in January of each year appropriate the sum of five (5) dollars to pay the official estray paper for such service.

§ 7. OWNER MAY TAKE ESTRAY BY PAYING COSTS.] Whenever any person shall appear and make claim to any estray so taken up such claimant and the person taking up such estray may go before a justice of the peace in the county, and such claimant shall make affidavit in writing subscribed by him, setting forth his name and place of residence, and that he is the actual owner of such estray, describing it, etc., and thereupon the person taking up such estray shall be authorized to deliver the same to such claimant, on payment of all fees advanced by him and the actual cost of caring for and keeping such estray.

§ 8. ARBITRATION IN CASE OF DISPUTE.] If the parties cannot agree as to the amount of such charges the owner of the stock and party taking up estray each choose one disinterested person as arbitrators, freeholders, and the two so chosen shall choose a third party living in the vicinity where the estray was taken up. The amount assessed by such arbitrators shall be final.

§ 9. WHEN TITLE OF ESTRAY VESTS IN FINDER.] If such estray shall not be claimed and taken away within one year after advertisement thereof, then if the person taking up such estray shall

have caused the same to be duly advertised, as herein provided and shall not in other respects have violated the provisions of this act, the property therein shall immediately vest in the person taking the same up; *Provided*, That the appraised value of such estray shall not exceed fifty (50) dollars.

§ 10. APPRAISAL.] The person taking up such estray shall notify the board of county commissioners to appraise or appoint some suitable person or persons whose duty it shall be to appraise the value of said estray.

§ 11. FEES FOR KEEPING ESTRAYS.] Any person taking up estrays may charge for actual time employed, and for actual damage done there to crops. They shall also be allowed actual cost of feeding and stabling, providing they have fed and stabled the same.

§ 12. IN CASE OF TWO OR MORE ANIMALS.] If two or more animals are taken up at the same time by the same person, both and all thereof shall be numbered in the same advertisement, and the same fees are allowed as for the advertisement or appraisement of one estray.

§ 13. IN CASE VALUE OF ESTRAYS EXCEED \$50.] If the appraised value of any estray exceeds fifty (50) dollars, and the same is not called for within one year after the advertisement in the official estray paper thereof, the person taking up such estray shall notify some justice of the peace of the county, and such justice shall appoint a day and place for the sale thereof, and cause notices of such sale to be posted in three public places in the county at least twenty-two days before such day so appointed, or shall cause such notice of such sale to be published three times in a weekly newspaper, if there is one published in the county, and on the appointed day the person taking up such estray shall have the same present at the place fixed by the justice, and the justice shall proceed to sell such estray at public auction, for cash, and after paying the proper fees and charges for taking up such estray, and caring for and keeping the same, to be fixed by such justice, and the fees advanced for the appraisement and advertisement of such estray, as herein provided, and after deducting the fees allowed such justice for such sale and the advertisement thereof, the residue of the proceeds of such sale shall be paid to the county treasurer, who shall receipt to the justice therefor.

§ 14. COUNTY TREASURER CUSTODIAN OF FUNDS.] All monies so deposited with the county treasurer shall by him be retained in the treasury for six months thereafter, separate and apart from all other monies, and if the owner of any such estray so sold as aforesaid shall, within such period, appear before the board of county commissioners and establish his title to such estray, such board of county commissioners shall order the amount so paid into the treasury to be refunded to such owner; if no such owner appear within six months after the deposit of any such sum of

money as herein provided, the same shall be passed to the school fund of the county and shall be accounted for and expended as other school monies are.

§ 15. RECORD OF SOLD ESTRAY.] Whenever any sum of money is paid into the county treasury by virtue of Section 14, the justice paying the same shall deliver to the treasurer a certificate setting forth a description of the estray from the sale of which the same was obtained, and the marks and brands on such estray and the name of the person by whom such animal was delivered to him to be sold; and such certificate shall by the treasurer be filed and preserved in his office, to the end that the right of the owner of such estray to receive such sum of money may be readily established.

§ 16. FEES, HOW PAID AND COLLECTED.] The fees of justices of the peace, advertising and appraisers shall be paid by the person taking up the estray, but the same shall constitute a first lien upon the estray, and shall be paid by the owner before he shall be entitled to take away such estray.

§ 17. PENALTY FOR VIOLATION OF THIS ACT.] If any person not authorized so to do shall take up any estray or lost goods, or if any person taking up any such estray or lost goods, shall willfully neglect to cause the same to be advertised as herein provided, or shall fail to sufficiently feed and properly care for the same, every such person so offending shall be liable for actual damage to the owner thereof, to be recovered by action of debt before any justice of the peace.

§ 18. LIABILITY IN CASE OF DEATH OF ESTRAY.] If any estray after being duly advertised as herein provided, shall without fault of the person taking up the same, die or be stolen, or escape and wander away, the person taking up the same shall not be responsible therefor.

§ 19. OTHER PERSONAL PROPERTY GOVERNED BY THIS ACT.] The manner of taking up, appraising, advertising and disposing of any lost goods or personal property, which may be found upon the highways, or in any other place shall be the same as herein provided for estrays.

§ 20. EMERGENCY.] Whereas, an emergency exists in that this act will expedite the finding of estrays; therefore, this act shall take effect and be in force immediately from and after its passage and approval.

Approved March 7, 1890.

## CHAPTER 67.

[H. F. 141.]

## CERTAIN ANIMALS RESTRAINED FROM RUNNING AT LARGE.

## AN ACT Restraining Certain Male Animals From Running at Large.

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

§ 1. WHEN CERTAIN ANIMALS PROHIBITED FROM RUNNING AT LARGE.] No stallion or jack over the age of one year, nor any bull over the age of eight months shall be permitted to run at large in this State, no ram shall be permitted to run at large during the months of September, October and November of each year; *Provided*, That no animal kept in a herd shall be regarded as running at large.

§ 2. PENALTY.] The owner or persons in charge of such animal or animals that are prohibited from running at large by this act who shall permit such animal or animals to run at large may be fined for each offense not less than ten (10) nor more than fifty (50) dollars, and shall also be liable in addition to such fine for all damages resulting from the running at large of such animal or animals, both fine and damages together with costs of suit to be collected through any court of competent jurisdiction.

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

Approved March 18, 1890.

## FLAGS.

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### CHAPTER 68.

[H. F. 208.]

#### PURCHASE OF FLAGS BY SCHOOL BOARDS.

AN ACT to Authorize School Boards to Purchase United States Flags.

*Be it Enacted by the Legislative Assembly of the State of North Dakota.*

§ 1. WHEN MAY BE PURCHASED.] At their discretion the school board of any town, city or district is hereby authorized to purchase, at the expense of the town, city or district one or more flags of the United States, and place the same in the school room or rooms under their charge.

Approved March 18, 1890.

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### CHAPTER 69.

[H. F. 180.]

#### THE UNITED STATES FLAG TO BE DISPLAYED ON PUBLIC BUILDINGS.

AN ACT Providing for the Displaying the Flag of the United States on all Public State Institutions.

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

§ 1. FLAGS DISPLAYED ON PUBLIC INSTITUTIONS.] The flag of the United States shall be displayed upon all public state institutions between the hours of 9 o'clock a. m. and 4 o'clock p. m. of each day.

§ 2. BILLS OF EXPENSE, HOW PAID.] It is hereby made the duty of the officials in charge of the various State institutions to make the necessary arrangements for carrying out the provisions of this act, and the bills of expense necessarily incurred in so doing shall be audited and paid by the State Auditor in the same manner as bills for incidental expenses are audited and paid.

Approved February 10, 1890.



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# FORESTRY.

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## CHAPTER 70.

[S. F. 47.]

### TO PROMOTE FOREST TREE CULTURE.

AN ACT Entitled "An Act to Promote Forest Tree Culture."

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

§ 1. BOUNTY FOR TREE PLANTING.] Every person planting one acre or more of prairie land with any kind of forest trees except black locust and successfully growing and cultivating the same for three years, shall be entitled to receive for ten years thereafter an annual bounty of three (3) dollars for each acre so planted and cultivated, to be paid out of the State Treasury; but such bounty shall not be paid any longer than such grove shall have at least 400 living trees on each acre so maintained and kept in growing condition.

§ 2. SAME.] Every person planting such forest trees or trees suitable for hedge in rows as boundary lines along the public highways or on any other portion of his premises, which rows shall contain not less than three living trees to each rod, and who shall in other respects comply with the provisions of this act, shall annually receive a bounty at the rate of four (4) dollars for every 160 rods of each row in length.

§ 3. PROOF OF PLANTING—LIST OF LANDS TO BE CERTIFIED TO STATE AUDITOR.] Any person wishing to secure the benefits of this act, shall, during the month of June next after the expiration of two years after planting such grove, row or rows of trees, and annually thereafter, file with the county auditor or clerk of the county in which the same is located a correct plat of the land, describing the section or fraction thereof on which such grove, row or rows have been planted or cultivated, and shall make due proof of such planting and cultivation, as well as of the title to the land, by oath of the owner and the affidavit of two householders residing in the vicinity, setting forth the facts in relation to the growth and cultivation of the grove, row or rows of trees for which such bounty is demanded. The several county auditors or clerks shall, on or before the first Monday of August of each year forward to the State Auditor a certified list of all the lands and tree planting reported and verified to them in compliance with this act,

with the name and postoffice address of the respective owners thereof; *Provided*, This act shall not apply to any railroad company for planting trees within 200 feet of its track for the purpose of making a snow fence, nor to any trees planted upon land held, entered and acquired under the timber culture laws of the United States; *Provided, further*, That not more than one hundred (100) dollars shall be paid annually for the trees raised on any one quarter section of land.

§ 4. AUDITOR TO PAY BOUNTY.] If the State Auditor shall find that the provisions of this act have been duly complied with, he shall issue to the several applicants entitled thereto his warrant upon the State Treasurer for the bounty so earned.

§ 5. All acts or parts of acts in conflict with the foregoing act are hereby repealed.

Approved February 5, 1890.

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## GRAND JURIES.

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### CHAPTER 71.

[H. F. 77.]

#### REPEAL OF GRAND JURY LAW EXCEPT IN CERTAIN CASES.

AN ACT Entitled "An Act to Provide for the Prosecution and Trial of Crimes and Offenses on Information and to Dispense with the Calling of Grand Jurors, Except by Order of the District Court Judges."

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

§ 1. PROSECUTION ON INFORMATION.] That the several district courts of this State shall possess and may exercise the same power and jurisdiction to hear, try and determine prosecutions upon information, for felonies, misdemeanors and other offenses, to issue writs and process, and do all other acts therein, as they do now, or may hereafter possess and may exercise in cases of like prosecutions upon indictments by a grand jury.

§ 2. INFORMATIONS, HOW FILED.] All informations shall be filed in the district court of the county having jurisdiction of the crime or offense specified therein, by the state's attorney of the proper county, as informant, and during the term of the said district court held in and for such county, the state's attorney shall subscribe his name to the information and endorse thereon the names of all witnesses for the prosecution known to him at the time of

filing the same; but other witnesses may testify on the trial of such cause in behalf of the prosecution thereof the same as if their names had been endorsed thereon.

§ 3. VERIFICATION OF INFORMATION.] The state's attorney, prosecuting witness or some other person shall verify the information and the crime or offense charged therein shall be stated and set forth in ordinary and concise language, without repetition, and in substance as is now provided and required by law on indictments in like cases.

§ 4. INFORMATION TO CHARGE BUT ONE CRIME—RIGHTS OF DEFENDANT.] The information must charge but one crime or offense, but the same crime or offense may be set forth in different forms or degrees and joined in one information, in all cases where the same might or may be done by different counts in one indictment; and the defendant or defendants in all cases of such prosecution shall have the same rights, as to proceedings therein, as if prosecuted for the same crime or offense upon indictment.

§ 5. PROVISIONS OF LAW TO APPLY TO PROSECUTIONS BY INFORMATION.] That all of the proceedings of the Code of Criminal Procedure and all other provisions of law either relating or in any manner applying to prosecutions upon indictments, to writs and process therein, and the issuing and service thereof, to motions, pleadings, trials, penalties and punishments, the passing or the execution of any sentence, and to all other proceedings in cases of indictment, whether in the court of original or appellate jurisdiction shall, in the same manner and to the same extent and effect, as near as may be, apply to prosecutions by information and to all proceedings thereon, the same as if prosecuted by indictment.

§ 6. RECOGNIZANCE AND BAIL.] Any person who may, as provided by law, be committed to jail, or become recognized, or held to bail with surety or sureties for his appearance in court to answer to any indictment may, in like manner, be so committed or recognized and held to bail for his appearance, to answer to any information or indictment, as the case may be.

§ 7. PRELIMINARY EXAMINATION—DUTY OF STATE'S ATTORNEY.] It shall be the duty of the state's attorney of the proper county to inquire into and make full examination of all the facts and circumstances connected with any case of preliminary examinations, as provided by law, touching the commission of any offense wherein the offender shall be committed to jail, or wherein he has become recognized or held to bail, and if upon such examination the state's attorney shall determine in any such case that an information ought not to be filed, he shall make, subscribe and file with the clerk of the court a statement in writing containing his reasons, in fact and in law, for not filing an information in such case, and such statement shall be filed at and during the term of court at which the offender shall be held for his appearance; *Provided*, That in such case the court may examine said statement, together with the evidence filed in the case, and if upon such examination

the court shall not be satisfied with said statement, the state's attorney shall be directed by the court to file the proper information and bring the case to trial.

§ 8. PRELIMINARY EXAMINATION BEFORE FILING OF INFORMATION.] No information shall be filed against any person for any crime or offense until such person shall have had a preliminary examination therefor, as provided by law, before a committing magistrate or other officer having authority to make preliminary examinations, unless such person shall waive his right to such examination, or the offense committed during the sitting of the court then holden in and for the county where committed; *Provided, however,* That information may be filed without such examination against fugitives from justice, and any fugitive from justice against whom an information shall be filed may be demanded by the Governor of this State of the executive authority of any other state or territory, or of any foreign government in the same manner, and the same proceedings may be had thereon, as provided by law in like cases of demand upon indictment filed.

§ 9. HOW AND WHEN GRAND JURIES MAY BE DRAWN.] Grand juries shall not hereafter be drawn, summoned or required to attend the sittings of any court within this State, as provided by law, unless the judge thereof shall so direct by order in writing under his hand, and filed with the clerk of said court; and in case such order is made and filed the grand jury shall be drawn and summoned in the manner now or as may hereafter be provided by law; *Provided, however,* That on the written request of the members of the board of county commissioners or a petition signed by at least twenty-five resident freeholders and taxpayers of the county wherein the court is to be held presented to the judge at least fifteen days before the commencement of the term, the said judge shall make and file with the clerk of the court an order calling a grand jury for said term and in such case the grand jury shall be summoned to attend said court in the manner as above provided.

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

§ 11. EMERGENCY.] Whereas, an emergency exists, in that the Constitution authorizes criminal prosecutions by information and there being no provision of law carrying the same in effect and it being necessary, in order to save expense to the several counties that this act take effect long before July first next; therefore this act shall take effect and be in force immediately from and after its passage and approval.

Approved February 6, 1890.

# INCORPORATION.

## CHAPTER 72.

[S. F. 190.]

### PROVIDING FOR INCORPORATION OF CERTAIN BENEVOLENT INSTITUTIONS.

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. WHO MAY INCORPORATE.] That lodges, chapters, posts, encampments, councils, commanderies and other similar organizations, grand or subordinate, of the fraternities or associations commonly known as the Free and Accepted Masons, Independent Order of Odd Fellows, Grand Army of the Republic, Knights of Pythias, Ancient Order of United Workmen, and other similar benevolent or charitable fraternities or associations, may become corporations upon compliance with the provisions of this act.

§ 2. ARTICLES, WHAT TO CONTAIN.] That any such lodge, chapter, post, encampment, council, commandery or other similar organizations desiring to avail itself of the provisions of this act, shall cause to be prepared articles of incorporation, which must set forth:

1. The corporate name by which said corporation shall be known.
2. The place where it shall be located.
3. The time during which it shall exist.
4. The number of its directors or trustees, and the names and residences of the members who shall serve as directors or trustees until the election and qualification of their successors in office.
5. Whether it shall be subject to any grand, supreme or sovereign lodge or other superior body or bodies.
6. The amount of property (not exceeding \$50,000) which it may hold, and the disposition to be made of the same in case of its dissolution.
7. Whether the private property of its members shall be liable for its corporate debts.

§ 3. ARTICLES TO BE ACKNOWLEDGED.] The articles of incorporation must be subscribed and acknowledged by the trustees or directors therein named, who shall append thereto an affidavit duly subscribed and sworn to by each of them, setting forth that at a

regularly called meeting of the lodge or body which it is proposed to incorporate, the date of which meeting shall be stated in such affidavit, it was voted by a majority of the members present at such meeting, to incorporate such lodge or other body, and that the affiants are the duly elected directors or trustees of such lodge or other body.

§ 4. LIABILITY.] The private property of the members of corporations formed under this act shall not be liable for its corporate debts, unless it be so provided in the articles of incorporation.

§ 5. DURATION OF CORPORATIONS.] The duration of corporations organized under this act may be perpetual if it be so stated in the articles of incorporation.

§ 6. BY-LAWS.] All corporations formed under this act shall have the power to enact by-laws not inconsistent with the laws of the United States or of the State of North Dakota, and to amend and repeal the same in such manner as the members thereof shall determine. Every corporation formed under this act shall, within three months after the filing of its articles of incorporation in the office of the Secretary of State, adopt by-laws, and file a copy thereof within one month after the adoption thereof, in the office of the Secretary of State. The copy so filed shall be certified to by the directors or trustees of the corporation as being a true copy of the by-laws of such corporation. A copy of any by-law thereafter adopted, similarly certified to, shall be filed in the office of the Secretary of State within one month after its adoption, and in case of the repeal or amendment of any by-law the directors or trustees shall within one month after such amendment or repeal, file with the Secretary of State a certificate setting forth the fact of such amendment or repeal.

§ 7. CORPORATIONS TO BE GOVERNED BY BY-LAWS.] All corporations formed under this act shall elect their directors or trustees and their other officers, and call and hold their meetings at the times, places and in the manner prescribed by their by-laws. The officers, other than directors or trustees, shall be such as the by-laws shall prescribe, and shall perform such duties as may be designated by the by-laws.

§ 8. ARTICLES, WHAT MAY CONTAIN.] 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 lodge or other organization, the corporation shall be dissolved in the manner provided by the Civil Code, upon the application to the district court of the directors or trustees of such corporation, or of a majority of the

members thereof, or of the secretary or other managing officer or officers of the grand, supreme or sovereign lodge or other superior body or bodies, to the jurisdiction of which such corporation may be subject, and that in such case the property of such corporation shall be held by the directors or trustees thereof, in trust for such grand, supreme or sovereign body or bodies, and that after the debts of such corporation shall have been paid, and upon the entry by the district court of the final decree of dissolution, the property of such corporation shall be turned over by the directors or trustees to such grand, supreme or sovereign lodge or other superior body or bodies.

§ 9. REPEAL OF CONFLICTING ACTS.] Sections 386, 403, 405, 406, 408, 410, 411 and 539 of the Civil Code, and all other laws or parts of laws in conflict, are hereby repealed, so far as they affect the corporations named in this act.

Approved March 20, 1890.

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## INSURANCE.

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### CHAPTER 73.

[H. F. 2.]

#### DEFINING THE DUTIES OF THE COMMISSIONER OF INSURANCE.

AN ACT Entitled "An Act Defining the Duties of the Commissioner of Insurance."

In compliance with Section 67 of Article 2 of the Constitution in reference to cases of emergency, the following bill is introduced under and by provisions of the Constitution:

WHEREAS, An emergency exists in that the duties pertaining to the office of the Commissioner of Insurance, created by the Constitution, have heretofore been performed by the Territorial Auditor, and there being no constitutional provision authorizing the said Commissioner of Insurance to take possession of said office and to execute the duties thereof; therefore,

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

§ 1. TRANSFER OF AUTHORITY FROM AUDITOR TO COMMISSIONER OF INSURANCE.] That the duties pertaining to the insurance department heretofore performed by the Territorial Auditor, be and

the same are hereby transferred to the office of the Commissioner of Insurance.

§ 2. TRANSFER OF RECORDS.] All books, papers and documents in the office of the State Auditor, relating to the business of insurance, and not assigned to South Dakota by the agreement to the Joint Commission, shall be transferred to the custody of the Commissioner of Insurance, and be and remain in his charge and custody.

§ 3. OFFICE AND EXPENSES.] There shall be assigned to the said commissioner, suitable rooms for the conducting of the business of said department, the necessary expenses of which, dating from November 4, 1889, shall be audited by the State Auditor, on the certificate of the commissioner, and paid on the warrant of the State Auditor.

§ 4. SEAL.] The Commissioner of Insurance shall have an official seal, and shall employ competent clerks, such clerks to discharge such duties as he may assign.

§ 5. VACANCY—BOND.] Whenever a vacancy shall occur in said office of Commissioner of Insurance by reason of death or otherwise, the Governor shall fill such vacancy by appointment by and with the approval of the Senate, if in session, and the said Commissioner of Insurance shall give to the people of the State of North Dakota, a bond in the penalty of \$5,000 with securities [sureties] approved by the Governor and Secretary of State, conditioned for the faithful discharge of the duties of his office. The Commissioner of Insurance shall possess all the powers and perform all the duties heretofore conferred by law upon the Auditor in relation to the insurance companies and the execution of the laws.

§ 6. ANNUAL REPORT.] The Commissioner of Insurance shall be required to make an annual report, including the receipts and disbursements of his office, on or before the 31st day of December of each year; *Provided, however,* That nothing in this act shall compel the Commissioner of Insurance elected in 1889 to make a report prior to December 31, 1890.

§ 7. DEPUTY.] In case of sickness or temporary absence from his office the Commissioner of Insurance may empower his chief clerk to sign his name and perform such other duties as are required by law pertaining to the duties of the said Commissioner of Insurance.

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

Approved December 4, 1889.



## CHAPTER 74.

[H. F. 93.]

## PROVIDING FOR UNIFORM INSURANCE POLICIES.

AN ACT to Provide for a Uniform Policy of Fire Insurance to be Made and Issued in this State by all Insurance Companies Taking Fire Risks on Property Within this State.

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

§ 1. FORM OF INSURANCE POLICY TO BE PREPARED BY COMMISSIONER.] The Insurance Commissioner shall prepare and file in his office on or before the first day of August, 1890, a printed form in blank of a contract or policy of fire insurance, together with such provisions, agreements or conditions as may be endorsed thereon, or added thereto, and form a part of such contract or policy, and such form when so filed shall be known and designated as the North Dakota Standard Policy. Said Insurance Commissioner shall within sixty days from the passage of this act, prepare, approve and adopt a printed form in blank of a contract or policy of fire insurance, together with such provisions, agreements and conditions as may be endorsed thereon, or added thereto, and form a part of such contract or policy, and such form shall, as near as the same can be made applicable, conform to the type and form of the New York Standard Fire Insurance Policy, so called and known; *Provided, however,* That five days' notice of cancellation by the company shall be given, and provided that proof of loss shall be made within sixty days after a fire.

§ 2. ATTORNEY GENERAL TO ASSIST.] The Insurance Commissioner may call upon the Attorney General for such assistance as to him may seem necessary in the preparation of the aforesaid standard insurance policy, and it is hereby made the duty of said Attorney General to perform such service.

§ 3. COPIES TO BE PRINTED AND DISTRIBUTED.] Immediately after filing said form of policy in the office of said Insurance Commissioner, he shall have 500 copies of the same printed, together with 500 copies of this act, and mail to each company doing a fire insurance business in this State, copies of the same.

§ 4. WHEN PROVISIONS OF THIS ACT TO APPLY—CONDITIONS OF POLICY PRESCRIBED.] On and after the first day of October, A. D. 1890, no fire insurance company, corporation or association, their officers or agents, shall make, issue, use or deliver for use, any fire insurance policy or renewal of any fire policy on property in this State, other than such as shall conform in all particulars as to

blanks, size of type, context, provisions, agreements and conditions with the printed form of contract or policy so filed in the office of the Insurance Commissioner, as provided for in the first section of this act, and no other or different provision, agreement, condition or clause shall in any manner be made a part of said contract or policy, or be endorsed thereon or delivered therewith, except as follows, to-wit:

First. The name of the company, its location and place of business, the date of its incorporation or organization, and the state or country under which the same is organized, the amount of paid up capital stock, whether it is a stock or mutual company, the names of its officers, the number and date of the policy; and if it be issued through a manager or agent of the company, the words "This policy shall not be valid until countersigned by the duly authorized manager or agent of the company at....." may be printed on policies issued on property in this State.

Second. Printed or written forms of description and specification or schedules of the property covered by any particular policy, and any other matter necessary to clearly express all the facts and conditions of insurance on any particular risk (which facts or conditions shall in no case be inconsistent with or a waiver of any of the provisions or conditions of the standard policy herein provided for) may be written upon or attached or appended to any policy issued on property in this State.

Third. A company, corporation or association organized or incorporated under and in pursuance of the laws of this State or elsewhere if entitled to do business in this State, may, with the approval of the Insurance Commissioner, if the same is not already included in the standard form to be filed in the office of said commissioner, as provided for in the first section of this act, print on its policies any provision which it is required by law to insert therein if such provision is not in conflict with the laws of this State or the United States, or of the provisions of the standard form provided for herein, but said provision or provisions shall be printed apart from the other provisions, agreements or conditions of the policy, and in type not smaller than the body of the policy, and under a separate title, as follows: "Provisions required by law to be stated in this policy," and be a part of said policy.

Fourth. There may be endorsed on the outside of any policy herein provided for the name with the word "agent or agents," and place of business of any insurance agent or agents, either by writing, printing, stamping or otherwise.

Fifth. Where two or more companies (each having previously complied with the laws of this State) unite to issue a joint policy, there may be expressed in the heading of such policy the fact of the severalty of the contract; also the proportion of premiums to be paid to each company and the proportion of liability which each company agrees to assume. And in the printed conditions of such policy the necessary change may be made from the singu-

lar to the plural number, when reference is had to the companies issuing such policies.

§ 5. PENALTY FOR VIOLATION OF THIS ACT.] Any insurance company, its officers or agents, or either of them, violating any provisions of this act by making, issuing, delivering or offering to deliver any policy of fire insurance on property in this State, except as hereinbefore provided, shall be guilty of a misdemeanor, and upon complaint made by the Insurance Commissioner or by any citizen of this State shall, upon conviction thereof, be punished by a fine of not less than fifty (50) dollars nor more than one hundred (100) dollars for the first offense, and of not less than one hundred (100) dollars nor more than two hundred and fifty (250) dollars for each subsequent offense; but any policy so made, issued and delivered shall, nevertheless, be binding upon the company issuing the same, and such company shall thereafter be disqualified from doing any insurance business in this State.

§ 6. WHAT COMPANIES EXEMPT.] That nothing contained in this act shall be construed to affect county mutual companies organized and doing business in this State.

Approved February 13, 1890.

## CHAPTER 75.

[S. F. 80.]

### WHEN CHARTER OF INSURANCE COMPANY MAY BE REVOKED.

AN ACT Entitled "An Act Authorizing and Requiring the Commissioner of Insurance of the State of North Dakota to Revoke the Authority Granted any Insurance Company to do Business Within the State of North Dakota, on the Failure of such Company so Authorized to Transact Business, to Satisfy any Execution on any Judgment Against it."

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

§ 1. COMMISSIONER OF INSURANCE TO REVOKE CHARTER OF INSURANCE COMPANY FOR FAILURE TO SATISFY JUDGMENT.] Whenever a judgment for the recovery of money has heretofore been or hereafter may be recovered in any of the courts of this State, or in any of the courts of the United States having jurisdiction in this State, against any insurance company, or against any association, partnership, firm or individual engaged in the business of insurance, and holding a certificate of authority therefor from the Territorial Auditor, under the laws of the Territory of Dakota, or from the Commissioner of Insurance, under the laws of this State, and an

execution thereon is issued and duly returned unsatisfied in whole or in part, proof is made by any person, by filing with the Commissioner of Insurance a certified transcript of the docket of such judgment, together with a certificate of the clerk of the court in the county where the judgment roll in said action is filed and the judgment therein is docketed, that an execution has been issued on such judgment to the proper officer of such county and returned unsatisfied in whole or in part, and with the date of issuing and return, the Commissioner of Insurance shall within thirty days revoke all authority or license for the transaction of any kind of insurance business within this State conferred upon such insurance company, association, partnership, firm or individual under the provisions of the insurance laws and shall withhold therefrom any new certificate of authority, such as is contemplated under said insurance laws, until such judgment so docketed against such company, association, partnership, firm or individual, is wholly paid and satisfied, and proof thereof filed with such Commissioner of Insurance by the official certificate of the clerk of the court in the county where the judgment roll is filed and judgment docketed, showing that the same is satisfied of record, and until the expenses and fees incurred in the case under the provisions of this act are also paid by such company, association, partnership, firm or individual; and the Commissioner of Insurance shall also forthwith cause notice of such revocation of authority to be published in some daily newspaper, printed and published in the capital of the State, for at least one week; and during the time such authority or license remains so revoked, it shall be unlawful for the company, association, partnership, firm or individual holding such revoked certificate of authority, or any of its agents or officers, to issue or renew any policies of insurance, take any risks or transact any business whatever relating to insurance, except such as is absolutely necessary in closing up its affairs in this State.

§ 2. All acts and parts of acts in conflict herewith are and the same are hereby repealed.

Approved February 6, 1890.

## CHAPTER 76.

[H. F. 293.]

## REGULATING THE WRITING OF INSURANCE.

AN ACT Entitled "An Act to Regulate the Writing of Insurance of Whatsoever Kind in this State."

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

§ 1. RESIDENT AGENTS ONLY TO WRITE INSURANCE IN STATE.] That it shall be unlawful for any insurance company to write insurance of any kind in this State except through its authorized agents, who shall be duly appointed by said company and authorized as prescribed by law by the Commissioner of Insurance, and that all such agents shall have their office or place of business in this State and all such agents shall keep a book for the registration of all premiums received. Such agents shall upon request of the Commissioner of Insurance make, under oath, an annual report to the insurance department of this State of all premiums received for each insurance company represented by them for the preceding year ending December 31st, or within thirty days thereafter.

§ 2. POLICIES WRITTEN IN ANOTHER STATE INVALID.] All policies or risks written on property of whatsoever kind in this State by insurance companies through their agents, such agents having their office in another state, shall be deemed a violation of this act, and all policies so written shall be declared invalid.

§ 3. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 31, 1890.

## CHAPTER 77.

[H. F. 162.]

## RELATING TO COUNTY MUTUAL INSURANCE COMPANIES.

AN ACT to Amend Chapter 67 of the General Laws of 1887 Relating to County Mutual Insurance Companies.

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

§ 1. WHO MAY UNITE TO FORM COMPANY.] That Section 1 of Chapter 67 of the General Laws of 1887, relating to county mutual insurance companies, be amended so as to read as follows: "Sec. 1. It shall be lawful for any number of persons, not less than twenty-five, residing in any county in this state who collectively shall own property not less than \$25,000 in value which they desire to insure, to form themselves into a company for mutual insurance against loss or damage by fire, lightning, hail and cyclones, which corporation shall possess other powers and be subject to other duties of corporations, and the corporate name thereof shall embrace the name of the county in which the business office of the said company shall be located. It shall also be lawful for any number of persons, not less than fifty, residing in any five adjoining counties in this State who collectively shall own property not less than \$50,000 in value which they desire to insure, to form themselves into a company for mutual insurance against loss or damage by fire, lightning, hail and cyclones, which shall possess other powers and be subject to other duties of corporations, and the corporate name thereof shall be chosen by the members of such company, and the head office for the transaction of the company's business may be located wherever the members of the company see fit, only it must be located within the limits of such five adjoining counties comprising the company; *Provided*, That all laws relating to the Commissioner of Insurance's powers and duties shall apply to such company.

Approved March 18, 1890.

## CHAPTER 78.

[H. F. 48.]

## PUBLICATION OF INSURANCE STATEMENTS.

AN ACT to Amend Section 16 of Chapter 69 of the General Laws of 1885, and Section 10 of Chapter 69 of the General Laws of 1889 Relating to the Publication of Insurance Statements.

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

§ 1. AMENDMENT.] That Section 16 of Chapter 69 of the General Laws of 1885 be amended to read as follows:

“Sec. 16. ANNUAL STATEMENT, PUBLICATION OF.] Every insurance company doing business in this State must transmit to the Commissioner of Insurance a statement of its condition and business for the year ending on the preceding thirty-first day of December, which shall be rendered on the first day of January in each year, or within one month thereafter, except that foreign insurance companies shall transmit their statements of business, other than that taken in the United States prior to the following first day of May. Such statement must be published at least three times in a newspaper of general circulation printed and published in each judicial district of the State in which said insurance company shall have an agency, and a duplicate thereof, upon which shall be endorsed the names of the attorneys on whom process of law can be served as required by this act, shall be filed in the office of the register of deeds of the county wherein the agency may be established, but the provisions of this section as to the appointment of attorney shall not apply to companies organized within this State. Statements for publication shall be made out on blanks furnished by the Commissioner of Insurance, and the Commissioner of Insurance’s certificate of authority for the company to do business in this State shall be published in connection with said statement of such company doing business in this State. Proof of publication to-wit: The printer’s affidavit of the fact shall be filed with the Commissioner of Insurance in all cases, which affidavit shall state that said insurance company has paid said newspaper one-half of the authorized rate for publishing legal notices, and that the full amount named inures to the sole benefit of the publisher or publishers thereof and that no agreement or understanding for the division thereof has been made with any person, and that no part thereof has been agreed to be paid to any person whomsoever and that every affidavit of publication shall state in plain terms the full amount authorized herein

has been charged and collected for such publication; *Provided*, The Commissioner of Insurance shall select three newspapers of general circulation published in each of the judicial districts from which said company shall select one in which said statements shall be published. In each district where there are one or more newspapers publishing daily and weekly editions one of such daily and weekly newspapers shall be selected and said statement shall be published one time in the daily edition and two times in the weekly edition of the newspaper so selected and designated to publish said statement, and the charge for such publication shall be the same as if three continuous insertions of said statement had been made in either the daily or weekly edition only."

§ 2. AMENDMENT.] That Section 10 of Chapter 69, of the General Laws of 1889, entitled "Insurance," be amended so as to read as follows:

Sec. 10. FILING OF PROOF OF PUBLICATION.] That Section 16, Chapter 69, Laws of 1885, be and the same is hereby amended by adding to said section the following words: "And the proof of publication herein required shall be filed with the Commissioner of Insurance within four months from the time of the filing of the annual statement."

§ 3. REPEAL.] This law is intended to define the lawful rate for the publication of insurance statements, and repeals Sections 1, 3 and 4 of Chapter 51 of the General Laws of 1887, in so far as said sections have been held to refer to the publication of insurance statements.

§ 4. EMERGENCY.] Whereas, the insurance statements must be published so soon after the first day of January as possible, and whereas, the law now in force is inadequate an emergency exists therefrom, this law shall take effect and be in force immediately after its passage and approval.

Approved February 10, 1890.



# JOINT COMMISSION.

## CHAPTER 79.

[S. F. 52.]

### TO EFFECT FINAL ADJUSTMENT BETWEEN NORTH AND SOUTH DAKOTA.

AN ACT to Provide for a Commission to Act With a Like Commission from the State of South Dakota to Effect the Final Adjustment Between the Respective States of North and South Dakota, and Defining its Duties and Powers.

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

§ 1. WHO TO CONSTITUTE COMMISSION—DUTIES.] The Auditor, Treasurer and Attorney General of the State of North Dakota shall constitute a Commission to represent and act for said State to effect a final settlement and adjustment of the outstanding indebtedness of the Territory of Dakota, including all accounts and matters of difference between the States of North Dakota and South Dakota respectively. Such Commission shall meet as soon as practicable with the Commission appointed from the State of South Dakota at some place mutually agreed upon, and proceed to make and consummate a final settlement and adjustment of outstanding indebtedness of the Territory of Dakota, and determine what portion thereof each of said states shall assume and pay; also to determine all other accounts and matters of difference between said states in accordance with the joint agreement of said states as incorporated in the Constitution of the respective states. Said Commission shall, upon the completion of their labors, make a full report of all their proceedings under this act to the Governor of the State, and if such proceedings are approved by him the Auditor is hereby authorized and directed to draw warrants on the State Treasurer to pay any sum which said Joint Commission shall determine to be paid by the State of North Dakota. All necessary traveling expenses of said Commission incurred under the provisions of this act shall, upon the presentation of an itemized statement thereof, properly verified, be audited and paid by the State Auditor.

§ 2. EMERGENCY.] It being important for the public welfare that a final settlement and adjustment of accounts between the States of North Dakota and South Dakota should be effected long prior to July 1, 1890; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved February 11, 1890.

## CHAPTER 80.

[H. F. 552.]

## FOR APPOINTMENT OF BOUNDARY LINE COMMISSIONER.

**AN ACT** Providing for the Appointment of a Commissioner on the Part of North Dakota to Supervise the Surveying, Ascertaining and Distinctly Marking the Boundary Line Between the States of North Dakota and South Dakota.

**WHEREAS**, A bill is now pending before the Congress of the United States appropriating monies to provide for the survey and permanently locating the boundary line between the States of North Dakota and South Dakota; therefore,

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

§ 1. COMMISSIONER TO BE APPOINTED.] That when the Congress of the United States shall have provided means for the surveying, ascertaining and distinctly marking the boundary line between the States of North Dakota and South Dakota, it shall be the duty of the Governor of this State to appoint a commissioner who shall be a resident of this State, a recognized and experienced surveyor, who with such assistants as may be necessary, on the part of the State, shall on the part of the State so supervise the surveying, ascertaining and distinctly marking the boundary line between the States of North Dakota and South Dakota.

§ 2. COMPENSATION.] Said Commissioner shall qualify as provided by law for civil officers, and shall receive as compensation for services rendered the State, the sum of five (5) dollars per day for each day actually engaged in such service, together with actual necessary expenses incurred in the discharge of such duties; *Provided*, That the *per diem* and expenses of such Commissioner shall be paid out of the government appropriation therefor.

§ 3. AUDITOR TO PAY ACCOUNTS.] It is hereby made the duty of the State Auditor upon the presentation to him of an itemized account of the *per diem* and expenses of the members of such Commissioner duly verified, to draw his warrant upon the State Treasurer in settlement thereof.

Approved March 31, 1890.

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## JUDICIAL DISTRICTS.

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### CHAPTER 81.

[H. F. 346.]

#### BOUNDARIES AND SUBDIVISIONS OF THE FIRST JUDICIAL DISTRICT.

AN ACT Defining the Boundaries of the First Judicial District, Subdividing the Same and Fixing the Terms of Court to be Held Therein.

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

§ 1. BOUNDARIES OF FIRST JUDICIAL DISTRICT.] The first judicial district of this State shall consist of the counties of Grand Forks, Walsh, Pembina, Cavalier and Nelson.

§ 2. FIRST SUBDIVISION—TERMS OF COURT.] The county of Grand Forks shall be the first judicial subdivision of said district, and two terms of the district court shall be held therein, in the city of Grand Forks, in the said county of Grand Forks, commencing on the first Tuesday in April and the first Tuesday in December in each year.

§ 3. SECOND SUBDIVISION—TERMS OF COURT.] The second judicial subdivision of said district shall consist of the county of Walsh, and two terms of the district court shall be held at the city of Grafton in said county annually on the first Tuesday of May and the first Tuesday of November in each year.

§ 4. THIRD SUBDIVISION—TERMS OF COURT.] The county of Pembina shall constitute the third judicial subdivision of said district, and two terms of the district court shall be held at the city of Pembina, in said county, on the third Tuesday of May and the third Tuesday of November in each year.

§ 5. FOURTH SUBDIVISION—TERMS OF COURT.] The county of Cavalier shall constitute the fourth judicial subdivision of said district and two terms of the district court shall be held at the village of Langdon, in said county, on the first Tuesday in June, and second Tuesday in December, in each year.

§ 6. FIFTH SUBDIVISION—TERMS OF COURT.] The county of Nelson shall constitute the fifth judicial subdivision of said district, and two terms of the district court shall be held at the village of Lakota, in said county, on the third Tuesday of June, and the third Tuesday in December, in each year.

§ 7. SIXTH SUBDIVISION—TERMS OF COURT.] The judge of the

district court shall have authority and he is so authorized, when in his judgment he may deem it necessary, and to the best interests of the people to call additional terms of court in any subdivision or to adjourn the terms provided for in this act.

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

§ 9. EMERGENCY.] An emergency exists in 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 constitutional provision in effect; therefore, this act shall take effect and be in force immediately from and after its passage and approval.

Approved March 20, 1890.

## CHAPTER 82.

[S. F. 56.]

### SUBDIVIDING THE SIXTH JUDICIAL DISTRICT.

AN ACT to Subdivide the Sixth Judicial District of the State of North Dakota, and to Fix the Terms of Court Therein.

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

§ 1. FIRST SUBDIVISION—TERMS OF COURT.] The first subdivision shall consist of the county of Burleigh. The district court in and for this subdivision shall be held at the city of Bismarck on the third Tuesday of May and the fourth Tuesday of November in each year.

§ 2. SECOND SUBDIVISION—TERMS OF COURT.] The second subdivision shall consist of the county of Billings. The district court in and for this subdivision shall be held at the town of Medora in said county at such time in each year as the judge of said court shall direct.

§ 3. THIRD SUBDIVISION—TERMS OF COURT.] The third subdivision shall consist of the county of Emmons. The district court in and for this subdivision shall be held at the town of Williamsport in said county at such time in each year as the judge of said court shall direct.

§ 4. FOURTH SUBDIVISION—TERMS OF COURT.] The fourth subdivision shall consist of the county of Kidder. The district court in and for this subdivision shall be held at the city of Steele in said county on the third Tuesday of June and the second Tuesday of January in each year.

§ 5. FIFTH SUBDIVISION—TERMS OF COURT.] The fifth subdivision shall consist of the counties of Mercer and Williams. The

district court in and for this subdivision shall be held at the town of Stanton in said county of Mercer at such time in each year as the judge of said court shall direct; *Provided*, That all cases heretofore instituted and now pending from said county of Williams shall be tried and determined in the district court to be holden in and for the county of Morton.

§ 6. SIXTH SUBDIVISION—TERMS OF COURT.] The sixth subdivision shall consist of the counties of McLean and Sheridan. The district court in and for this subdivision shall be held at the town of Washburn in the county of McLean at such time in each year as the judge of said court shall direct.

§ 7. SEVENTH SUBDIVISION—TERMS OF COURT.] The seventh subdivision shall consist of the county of Morton and all that portion of the Sioux Indian Reservation north of the seventh standard parallel and south of said county of Morton. The district court in and for this subdivision shall be held at the city of Mandan in the county of Morton on the third Tuesday in April and the first Wednesday after the first Monday in November in each year.

§ 8. EIGHTH SUBDIVISION—TERMS OF COURT.] The eighth subdivision shall consist of the county of Oliver. The district court in and for this subdivision shall be held at the town of Bentley in said county at such time in each year as the judge of said court shall direct.

§ 9. NINTH SUBDIVISION—TERMS OF COURT.] The ninth subdivision shall consist of the counties of Stark, Wallace, Dunn, Hettinger, Bowman, McKenzie, Allred and all of that portion of the Sioux Indian reservation south of said Hettinger and north of the seventh standard parallel which is hereby attached to the said county of Hettinger for judicial purposes. The district court in and for this subdivision shall be held at the town of Dickinson, in the county of Stark, on the first Tuesday of April, and the second Tuesday of September in each year.

§ 10. It shall be the duty of the district judge to hold at least two terms of court annually in such judicial subdivision wherein the time of holding the terms is at the option of said judge as hereinbefore provided.

§ 11. REPEAL.] All acts and parts of acts conflicting with this act or any of its provisions are hereby repealed.

§ 12. EMERGENCY.] The fact that the Constitution provides that terms of court shall be held in all organized counties wherein terms of court have never heretofore been held, creates an emergency which calls for the immediate taking effect of this act; therefore this act shall take effect and be in force from and after its passage and approval.

Approved February 10, 1890.

# JUDGMENT AND DECREES.

## CHAPTER 83.

[S. F. 185.]

### TRANSCRIPT FROM U. S. COURTS TO BE FILED WITH DISTRICT COURTS.

AN ACT Authorizing Transcripts of Judgments and Decrees of the United States Courts in the State of North Dakota to be Filed with the Clerks of the District Courts of the Several Counties and to be Docketed Therein.

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

§ 1. CLERK OF THE DISTRICT COURT TO DOCKET.] That a transcript of the docket entry of any judgment or decree rendered in any district or circuit court of the United States within this State, duly certified by the clerk of such district or circuit court of the United States, may be filed with the clerk of the district court of any county in this State, and the same shall be immediately docketed by said clerk in the same manner as judgments rendered in the district courts in this State are docketed.

§ 2. JUDGMENT OR DECREE BECOMES A LIEN FROM DATE OF DOCKETING.] That from the date of such docketing, and not before, such judgment or decree shall be a lien upon all the real estate of the judgment debtor not exempt from execution in such county, owned by him or the title to which he may subsequently acquire in the county where such docketing is made, in the same manner and to the same extent and under the same conditions only as if such judgment or decree had been rendered by the district court of this State.

§ 3. ACT, HOW TO BE CONSTRUED.] Nothing herein shall be construed to require the docketing of a judgment or decree of the United States Court in the office of the clerk of the district court of this State, in the same county in which a judgment or decree of the United States Court is rendered, in order that such judgment or decree shall be a lien upon any property within such county.

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

EMERGENCY.] Whereas, an emergency exists in that there is no provision under the present statutes relating to this subject, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 31, 1890.

## CHAPTER 84.

[H. F. 152.]

## EFFECT OF JUDGMENT IN ACTION OF FORECLOSURE.

AN ACT to Provide for the Effect of Judgment in an Action of Foreclosure of Liens Upon Real Property.

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

§ 1. LIABILITY OF PARTY HOLDING UNRECORDED CONVEYANCE.] In an action to foreclose a mortgage or other lien upon real property no person holding a conveyance from or under the mortgagor of the property mortgaged, or other owner thereof, or having a lien upon such property, which conveyance or lien does not appear of record in the proper office, at the time of the commencement of the action, need be made a party to such action; and the judgment therein rendered, and the proceedings therein had, are as conclusive against the party holding such unrecorded conveyance or lien as if he had been made a party to the action.

Approved March 17, 1890.

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 JURORS.

## CHAPTER 85.

[S. F. 59.]

## MANNER OF SELECTING JURORS BY COUNTY COMMISSIONERS.

AN ACT Relating to the Selection of Jurors.

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

§ 1. JURORS, HOW SELECTED.] That it shall be the duty of the board of county commissioners in those organized counties whose assessors' lists contain less than two hundred names of persons qualified to act as jurors for the year preceding the making or filing such lists of names for jurors, to select sixty per centum of such names in the manner provided by law.

§ 2. SPECIAL VENIRE.] That when such sixty per centum of names so selected shall not furnish a sufficient number of names from which to draw a grand and petit jury a special venire shall be issued by the judge of the district court to complete the panels of jurors.

§ 3. WHO SHALL SELECT JURORS.] In all organized counties in this State the county board to select jurors shall consist of the clerk of the district court, or his deputy, in case such clerk of the court does not act, county clerk, county treasurer, or a majority of them.

§ 4. WHEN BOARD TO MEET TO SELECT JURY.] It shall be the duty of the clerk of the district court in each county in which a district court has heretofore been held, immediately on the passage and approval of this act, to call a meeting, in the manner provided by law, of the board of officers authorized to select jurors; said board shall immediately meet pursuant to call and purge the jury box by taking therefrom and destroying all the tickets bearing the names of men who have been selected from counties other than the county in which said board of officers were elected.

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

§ 6. EMERGENCY.] The fact that terms of the district court will be held before July, 1890, in certain counties wherein the list of assessors will contain less than two hundred names, creates an emergency which calls for the immediate taking effect of this act; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 12, 1890.

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## LEGISLATIVE EMPLOYES.

### CHAPTER 86.

[S. F. 133.]

#### NUMBER, DUTIES AND COMPENSATION.

AN ACT to Fix the Number of Officers and Employes of the Legislative Assembly of the State of North Dakota, and to Provide for the Compensation and Payment of the Same.

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

§ 1. OFFICERS AND EMPLOYES—COMPENSATION.] The following shall be the officers and employes of the Senate and House of Representatives of the Legislative Assembly of the State of North Dakota, with the compensation as herein provided for, to-wit:



## FOR THE SENATE.

A president *pro tempore*, whose compensation shall be two (2) dollars per day.

One secretary, whose compensation shall be seven (7) dollars per day.

One assistant secretary, whose compensation shall be six (6) dollars per day.

One enrolling and engrossing clerk, whose compensation shall be six (6) dollars per day.

One bill clerk, whose compensation shall be five (5) dollars per day.

One stenographer, whose compensation shall be six (6) dollars per day.

One sergeant-at-arms, whose compensation shall be five (5) dollars per day.

One doorkeeper, whose compensation shall be four (4) dollars per day, and who shall discharge the duties of, and be assistant to the sergeant-at-arms.

One messenger, whose compensation shall be four (4) dollars per day.

One postmaster, whose compensation shall be four (4) dollars per day.

One chaplain, whose compensation shall be two (2) dollars per day.

Two pages, whose compensation shall be two (2) dollars per day, each.

One janitor, whose compensation shall be three (3) dollars per day.

One watchman, whose compensation shall be three (3) dollars per day.

One clerk of the judiciary committee, whose compensation shall be five (5) dollars per day.

One journal clerk, whose compensation shall be five (5) dollars per day, and who shall be under the supervision of the secretary of the Senate; *Provided*, The journal of the Senate be completed and indexed by the secretary of the Senate within ten days after adjournment thereof, and for such completion and indexing he shall be allowed the sum of fifty (50) dollars.

§ 2. ASSISTANT SENATE CLERKS, HOW APPOINTED.] In addition to the above, there shall be appointed by the president, when deemed necessary by the Senate, such assistant enrolling and engrossing clerks as may be actually necessary, who shall receive a compensation of five (5) dollars per day.

## FOR THE HOUSE OF REPRESENTATIVES.

§ 3. A speaker, whose compensation shall be two (2) dollars per day.

One chief clerk, whose compensation shall be seven (7) dollars per day.

One assistant clerk, whose compensation shall be six (6) dollars per day.

One enrolling and engrossing clerk, whose compensation shall be six (6) dollars per day.

One bill clerk, whose compensation shall be five (5) dollars per day.

One stenographer, whose compensation shall be six (6) dollars per day.

One sergeant-at-arms, whose compensation shall be five (5) dollars per day.

One doorkeeper, whose compensation shall be four (4) dollars per day, and who shall discharge the duties of, and be assistant to the sergeant-at-arms.

One messenger, whose compensation shall be four (4) dollars per day.

One postmaster, whose compensation shall be four (4) dollars per day.

One chaplain, whose compensation shall be two (2) dollars per day.

Four pages, whose compensation shall be two (2) dollars per day, each.

One janitor, whose compensation shall be three (3) dollars per day.

One watchman, whose compensation shall be three (3) dollars per day.

One clerk of the judiciary committee, whose compensation shall be five (5) dollars per day.

One journal clerk, whose compensation shall be five (5) dollars per day, and who shall be under the supervision of the chief clerk of the House, provided the journal of the House be completed and indexed by the chief clerk of the House within ten days after the adjournment thereof; and for such completion and indexing he shall be allowed the sum of fifty (50) dollars.

§ 4. ASSISTANT HOUSE CLERKS HOW APPOINTED.] In addition to the above there shall be appointed by the speaker, when deemed necessary by the House, such assistant enrolling and engrossing clerks as may be actually necessary, who shall each receive compensation of five (5) dollars per day.

§ 5. OTHER EMPLOYEES, HOW APPOINTED—COMPENSATION.] The president of the Senate and the speaker of the House of Representatives are hereby authorized to appoint, from time to time, such committee clerks or other employes for their respective bodies, in addition to those herein provided for, as in the judgment of their respective bodies may be deemed necessary for the transaction of their business; *Provided*, That the compensation of such subordinate employes so appointed shall in no case exceed the sum of four (4) dollars per day.

§ 6. SALARIES, HOW AUDITED AND PAID—CLERKS MAY BE DISCHARGED FOR INCOMPETENCY.] The respective amounts due each

clerk, officer or employe so employed and appointed shall be audited and paid out of the State Treasury upon an account certified by the presiding officer of the respective houses, attested by the secretary and chief clerk thereof, and when so audited and attested the State Auditor is hereby authorized and directed to draw the State warrants therefor upon the State Treasurer, who is hereby authorized and empowered to pay the same; *Provided*, That if any clerk or employe be found incompetent to discharge the duties of his or her position, it shall be the duty of the respective presiding officer and they are hereby empowered to discharge such person and fill the vacancy so created when deemed necessary.

§ 7. OFFICERS OF FIRST SESSION EXEMPT FROM PROVISIONS OF ACT.] *Provided*, That the compensation for the officers herein named shall not apply to the officers of the first session of the Legislative Assembly, but the salaries to be fixed for this session by resolution of the respective bodies; *Provided*, That this act shall not affect the number of officers and employes of the Senate and House selected and now exercising such offices or employment for the first Legislative Assembly.

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

§ 9. EMERGENCY.] Whereas, an emergency exists by reason of there being at present time no definite law touching the subject-matter of this act, and that it is essential that the compensation and number of the employes of the Legislative Assembly be established long prior to July 1, 1890, and as soon as practicable; now, therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 7, 1890.

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# LIENS.

## CHAPTER 87.

[H. F. 155.]

### PRIORITY OF THRESHING LIENS.

AN ACT to Amend Section 2 of Chapter 88 of Session Laws of 1889.

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

§ 1. AMENDMENT.] That Section 2 of Chapter 88 of Session Laws of 1889 be amended to read as follows:

“Sec. 2. PRIORITY OF LIEN.] Said lien shall have priority over all other liens and encumbrances upon said grain, created subsequent to the passage and approval of this act if filed within thirty days from the date upon which said threshing was completed.”

§ 2. AMENDMENT.] That Section 5 of said Chapter 88 be amended to read as follows:

“Sec. 5. FORECLOSURE.] The said lien may be foreclosed by a sale of the property 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.”

Approved March 17, 1890.

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## CHAPTER 88.

[S. F. 151.]

### MECHANIC'S LIENS FOR REPAIRING THRESHING MACHINES.

AN ACT Providing for a Lien upon Threshing Engines or Separators for Repairing the Same.

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

§ 1. MECHANIC'S LIEN.] Every mechanic or other person who shall do any labor upon or furnish any materials, machinery or fixtures for any threshing engine, or separator at the request of the owner or legal possessor of said property, shall have a lien on

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the same from the date of said repairing for his or their reasonable charges.

§ 2. PRIORITY OF LIEN.] Said lien shall have priority over all other liens or incumbrances upon said threshing engine or separator, created subsequent to the passage and approval of this act, if filed within ten days from the day upon which said labor was performed or materials were furnished.

§ 3. STATEMENT OF ACCOUNT TO BE FILED.] Any person entitled to a lien under this act, shall make an account in writing, stating the kind of engine or separator so repaired, the amount of labor or materials so made or furnished, and the name of the person or persons for whom the said labor was performed, or materials furnished, and after making oath to the correctness of the account, shall file the same in the office of the register of deeds of the county in which said threshing machine or separator was repaired, except when said labor was performed in an unorganized county, then in such case said statement shall be filed in the county to which said unorganized county is attached for judicial purposes.

§ 4. FILING TO OPERATE AS NOTICE.] 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 entry of chattel mortgages, and he shall be entitled to a fee of ten (10) cents therefor; and the filing of said statement shall operate as a notice to all purchasers, and incumbrancers of said property for subsequent to the date of said filing.

§ 5. HOW LIEN MAY BE FORECLOSED.] The said lien may be foreclosed by a sale of the mortgaged property embraced in said lien, upon the notice and in the manner provided by law for the foreclosure of chattel mortgages.

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

Approved March 7, 1890.

# LIVE STOCK.

## CHAPTER 89.

[S. F. 87.]

### WHEN AND WHAT LIVE STOCK MAY RUN AT LARGE.

AN ACT Making it Lawful for Certain Kinds of Stock to Run at Large During a Portion of Each Year, and for Prohibiting Stallions and Vicious Stock from Running at Large and Providing Penalties, and for Submitting this Act to a Vote.

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

§ 1. WHEN LAWFUL FOR STOCK TO RUN AT LARGE.] That it shall be lawful for cattle, horses, mules, ponies and sheep to run at large from the first day of November until the first day of April of each year, except within corporate limits of any city, town or village; *Provided, however,* No stallion or vicious bull, or any other animal known to be vicious shall be allowed to run at large at any time.

§ 2. LIABILITY OF OWNER.] The owner or person allowing a stallion or vicious bull, or any other animal known to be vicious, to run at large is guilty of a misdemeanor; and shall also be liable at the suit of the party injured for damages.

§ 3. OPERATION OF THIS ACT, HOW OBTAINED—PETITION AND ELECTION.] Whenever the board of county commissioners of any county in this State are petitioned by one-third or more, in number, of the resident legal voters of said county, as shown by the return of the last preceding election, praying for the operation of this act, the said board shall cause the proposition to be submitted at the next general election, by having written or printed on the ballots the following question:

“For repeal of the herd law from November first to April first; yes.”

“For repeal of the herd law from November first to April first; no.”

If the return of such election show a majority of all the legal votes cast to be for the repeal of said law between November first and April first, then in such county this act shall be a law; *Provided, however,* That nothing contained in Section 1 of this act shall be construed to in any manner affect counties not submit-

ting said proposition to a vote as provided for in this section, or having submitted said proposition without receiving a majority of all the legal votes cast.

§ 4. All acts or parts of acts inconsistent with any of the provisions of this act are hereby repealed.

Approved February 20, 1890.

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## MARSHALS OF SUPREME COURT.

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### CHAPTER 90.

[H. F. 353.]

#### APPOINTMENT, DUTIES AND COMPENSATION.

AN ACT Providing for the Appointment of Marshals of the Supreme Court of the State, Defining his Duties and Fixing his Compensation.

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

§ 1. MARSHALS OF SUPREME COURT, COMPENSATION.] That the sheriffs of the counties of Cass, Grand Forks and Burleigh be, and are hereby constituted and made the marshals of the Supreme Court of the State and shall be authorized to serve all process of the court, and shall be entitled to receive and paid the same fees and mileage for the service of process issued by the court or otherwise, relating to the business of the court, and the same compensation for attendance upon the court as is now allowed by law to sheriffs for performing simular duties in the district courts of the State, which fee shall be paid out of the State Treasury as other expenses are paid.

§ 2. WHEN RESPECTIVE MARSHALS TO ACT.] Whenever a term of the Supreme Court shall be held in the counties of Cass, Grand Forks or Burleigh, the sheriff of the respective counties shall be and act as marshal for that term.

§ 3. LIABILITY OF MARSHALS.] Said sheriff shall be liable on their official bonds given as sheriffs of their respective counties for the faithful and proper performance of their duties as marshals of the Supreme Court of the State.

§ 4. EMERGENCY.] Whereas, an emergency exists in that there is no provision provided whereby any person is authorized to serve processes issued by the Supreme Court of the State, therefore, this act shall be in full force and effect from and after its passage and approval.

Approved March 19, 1890.

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# MARRIAGE LICENSES.

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## CHAPTER 91.

[H. F. 67.]

### RELATING TO MARRIAGE LICENSES.

#### AN ACT Relating to Marriage and Providing Licenses.

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

§ 1. MARRIAGE DEFINED.] Marriage is a personal relation arising out of a civil contract, to which the consent of the parties thereto is essential; but the marriage relation shall be entered into, maintained, annulled or dissolved only as provided by law.

§ 2. AGE OF CONSENT TO MARRIAGE.] Any unmarried male of the age of sixteen years or upwards, and any unmarried female of the age of thirteen years or upwards, and not otherwise disqualified, are capable of consenting to and consummating marriage; *Provided*, That if the male is under twenty-one years or the female under eighteen years of age, the license provided for in this act shall not be issued without the consent of the parent or guardian, if there be any.

§ 3. WHO DISQUALIFIED TO MARRY.] Marriages between parents and children, including grandparents and grandchildren of every degree, between brothers and sisters of the one-half as well as the whole blood, between uncles and nieces, aunts and nephews or cousins or the one-half as well as the whole blood, are declared to be incestuous and absolutely void. This section shall apply to illegitimate as well as legitimate children and relations.

§ 4. PENALTY.] Whoever shall contract marriage, in fact, contrary to Section 3 of this act, and whoever shall issue any license for or solemnize any such marriage knowingly, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be punished by imprisonment not to exceed six months or by a fine not to exceed five hundred (500) dollars.

§ 5. WHEN MARRIAGE VOIDABLE.] If either party to a marriage be incapable, from physical causes, of entering into the marriage state, or if the consent of either be obtained by force or fraud, the marriage is voidable.

§ 6. SAME.] A marriage contracted by a person having a former husband or wife living, and the former marriage has not been annulled or dissolved, is illegal and void from the beginning; un-



less such former husband or wife was absent and believed by such person to be dead for a period of five years immediately preceding.

§ 7. WHO MAY SOLEMNIZE MARRIAGES—LICENSE.] Marriages may be solemnized by all judges of courts of record within their respective jurisdictions; justices of the peace within their respective jurisdiction, by ordained ministers of the gospel and priests of every church throughout the State, but marriages solemnized in the society of Friends or Quakers according to the form used in their meetings, shall be valid. No such person shall solemnize any marriage until the parties thereto shall produce a license, issued by the judge of the county court of the county in which such ceremony is to be performed or if such county be unorganized the county to which it is attached for judicial purposes. When any person authorized by law shall solemnize a marriage he shall fill out and sign the certificate following the marriage license on the blank form prescribed by law, giving official title, or if minister of the gospel or priest, the ecclesiastical body with which he is connected and return such license and certificate to the county auditor or county clerk of the county within thirty days thereafter. Such certificate shall be signed by two witnesses to the marriage ceremony, in addition to the signature of the person who solemnized the marriage.

§ 8. MARRIAGE LICENSE, HOW OBTAINED.] The judge of the county court of the several counties in this State, when applied to by any person for a marriage license, shall inquire of such person, upon oath, relative to the legality of such contemplated marriage and he may examine other witnesses, upon oath, if deemed best; and if any of the persons intending to marry are under age said judge of the county court shall require the consent of the parent or guardian (if there be any) personally given, or a certificate of consent signed by such parent or guardian and attested by two witnesses, one of whom shall appear before such judge of the county court and make oath that he saw such parent or guardian sign such certificate; and if said judge of the county court shall be satisfied there is no legal impediment thereto, he shall issue and sign such marriage license and affix his seal, in the form prescribed by law.

§ 9. LICENSE AND CERTIFICATE.] The marriage license and certificate of the person solemnizing the marriage shall be upon one blank form substantially as follows:

MARRIAGE LICENSE.

County of....., State of North Dakota, .....  
 A. D., 18... To any person authorized by law to perform  
 the marriage ceremony, greeting: You are hereby authorized to  
 join in marriage....., of.....aged.....  
 and....., of....., aged.....; and of

this license and your certificate you will make due return to my office within thirty days.

[SEAL]

.....  
Judge of the County Court.

CERTIFICATE OF MARRIAGE.

I hereby certify that the persons named in the foregoing license were by me joined in marriage at....., county of ....., State of North Dakota, on the.....day of ....., 18...

In presence of: }  
..... } Witnesses: .....  
..... }

§ 10. RECORD TO BE KEPT BY COUNTY COURT.] The judge of the county court shall keep a marriage record book, in which he shall keep a correct copy of all marriage licenses issued by him; and when a license is returned with the certificate of the person performing the marriage ceremony properly filled out and signed, he shall also record such certificate immediately following the record of such license; and for each license and the record herein required he shall be entitled to a fee of one (1) dollar, to be paid by the party applying for the same.

§ 11. PENALTY.] If any judge of the county court shall neglect to record a copy of such license or the certificate of the person performing the marriage ceremony within thirty days after the return of the same, or if any person authorized to perform the marriage ceremony shall join any persons in marriage before a license, issued by the judge of the county court under his hand and official seal, shall be produced to him, or shall fail to execute the certificate and return license and certificate to the proper judge of the county court, he shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined not to exceed five hundred (500) dollars and costs, to be recovered for the use of the county.

§ 12. PENALTY FOR PERSONS NOT AUTHORIZED TO PERFORM MARRIAGE CEREMONY.] Any person not authorized by law to perform the marriage ceremony, who shall attempt to join others in marriage, shall be deemed guilty of a misdemeanor, and, upon conviction shall be fined not to exceed five hundred (500) dollars and not less than one hundred (100) dollars and costs, or be imprisoned in the county jail not exceeding one year, and not less than three months in the discretion of the court; *Provided*, That no marriage shall be void by reason of being performed without authority, if otherwise lawful and one or both parties to the marriage believed that they were lawfully married.

§ 13. INDIAN MARRIAGE CONTRACTS VALID.] Indians contracting marriage according to the Indian custom, and cohabitating as man and wife, shall be deemed legally married.

§ 14. MARRIAGES CONTRACTED OUTSIDE VALID IN THIS STATE.]

All marriages contracted outside of this State, which are valid according to the laws of the state or county where contracted, shall be valid in this State.

§ 15. COPY OF RECORD TO CONSTITUTE EVIDENCE IN COURT.] The books of record of marriage licenses issued and certificates returned, kept by the judge of the county court of any county, and copies of entries therein, certified by such county auditor or clerk, under his official seal, shall be received as evidence in all courts.

§ 16. PENALTY FOR UNMARRIED PERSONS TO LIVE TOGETHER AS MAN AND WIFE.] Any persons living together as man and wife within this State without being married, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in a sum not less than one hundred (100) dollars nor more than five hundred (500) dollars, or be imprisoned in the county jail not less than thirty days nor more than one year, and shall pay costs of the prosecution.

§ 17. MARRIAGE REGISTERS TO BE TURNED OVER TO COUNTY COURT.] It shall be the duty of the register of deeds, the judges of the county courts or other officers with whom certificates of marriage may have been filed, of each county to deliver to the judge of the county court of such county, within thirty days after the taking effect of this [act] all marriage registers in his office.

§ 18. CONFLICTING ACTS REPEALED.] Sections 34 to 53 inclusive, of the Civil Code, and all other acts and parts of acts in conflict with this act are hereby repealed.

Approved March 20, 1890.

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## MEDICAL SCIENCE.

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### CHAPTER 92.

[H. F. 186.]

FOR THE PROMOTION OF MEDICAL SCIENCE.

AN ACT to Promote Medical Science.

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

§ 1. WHAT DEAD BODIES MAY BE USED FOR DISSECTING.] It shall be lawful for any medical association, regular physician and surgeon, or the professors of any medical college, that is now or may hereafter become established within the State of North Da-

kota, to claim and receive the dead body of any person executed pursuant to sentence of law, all persons dying in the State Penitentiary or county jails while under sentence of law for crime, and to be used within the State for the advancement of anatomical science, preference being given to medical colleges established by law within this State, for their use in the instruction of students.

§ 2. REMAINS TO BE INTERRED. ] Every physician, surgeon or professor before receiving any such dead body, shall give to the officer surrendering the same a sufficient bond that each body shall be used only for the promotion of anatomical science within this State and so as in no event to outrage public feeling; and that after having been so used the remains thereof shall be decently interred in some public cemetery.

§ 3. WHEN BODY NOT TO BE USED FOR DISSECTING. ] If the deceased person during his last illness, of his own free will and accord, requested to be buried; or if within thirty-six hours after his death any friend or relation asks to have the body buried; or if such deceased person was a stranger or traveler who suddenly died, the body shall not be so surrendered but shall be buried.

§ 4. All laws so far as they conflict with this act are hereby repealed.

Approved February 8, 1890.

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## CHAPTER 93.

[S. F. 13.]

### REGULATING THE PRACTICE OF MEDICINE.

AN ACT to Regulate the Practice of Medicine in the State of North Dakota, to License Physicians, Surgeons and Obstetricians and to Punish Persons Violating the Provisions of this act.

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

§ 1. BOARD OF EXAMINERS, HOW APPOINTED—QUALIFICATION. ] The Governor of this State shall appoint a board of examiners, to be known as the State Board of Medical Examiners, consisting of nine members of whom eight shall be practicing physicians in good standing, who shall hold their office for three years after such appointment, and until their successors are appointed; *Provided*, That the members thereof first appointed under this act shall be divided into three classes, each class to consist of three. The first class shall hold office under such appointment for the period of one year; the second class for two years, and the third class for three years from the date of their respective appointment. It

is further provided that no member thereof shall be appointed to serve for more than two terms in succession, and no member of any college or university having a medical department shall be appointed to serve as members of said board. Two members of said board shall be homœopathic physicians and one a lawyer.

§ 2. OFFICERS—MEETINGS FOR EXAMINATION—RECORD OF LICENSES.] Said Board of Medical Examiners shall elect a president, secretary and treasurer, and shall have a common seal. The president and secretary shall have the power to administer oaths. Said Board of Medical Examiners shall hold meetings for examination at such place or places as the board may designate, on the first Tuesday of January, April, July and October of each year, and such other meetings as said board may from time to time appoint. Said board shall keep a record of all the proceedings thereof, and also a record or register of applicants for a license, together with his or her age, time spent in the study of medicine, and the name and location of all institutions granting to such applicants degrees or certificates of lectures in medicine or surgery. Such register shall also show whether such applicant was rejected or licensed under this act. Said books and register shall be *prima facie* evidence of all matters therein recorded.

§ 3. EXAMINATIONS, HOW CONDUCTED—LICENSES, WHEN REVOKABLE.] All persons hereafter commencing the practice of medicine, surgery and obstetrics in any of its branches in this State, shall apply to said board for a license so to do, and such applicant at the time and place designated by said board, or at the regular meeting of said board, shall submit to an examination in the following branches, to-wit: Anatomy, physiology, chemistry, histology, *materia medica*, therapeutics, preventive medicines, practice of medicine, surgery, obstetrics, diseases of women and children, diseases of the nervous system, diseases of the eye and ear, medical jurisprudence, and such other branches as the board shall deem advisable, and present evidence of having attended three courses of lectures of at least six months each; said board shall cause such examination to be both practical and scientific, but of sufficient severity to test the candidate's fitness to practice medicine, surgery and obstetrics. When desired, said examination may be conducted in the presence of the dean of any medical school or the president of any medical society of the State. After examination, said board shall grant a license to such applicant to practice medicine, surgery and obstetrics in the State of North Dakota, which said license can only be granted by the consent of not less than seven members of said board, and which said license shall be signed by the president and secretary of said board and attested by the seal thereof. The fee of such examination shall be the sum of twenty (20) dollars, and shall be paid by the applicant to the treasurer of said board, to be applied by the said board towards paying the expenses thereof. And such board may revoke or refuse a license for unprofessional, dishonorable or im-

moral conduct, for chronic or persistent inebriety, the practice of criminal abortion, or for publicly advertising special ability to treat or cure diseases which, in the opinion of said board, it is impossible to cure. In complaints for violating the provisions of this section, the accused person shall be furnished with a copy of the complaint and given a hearing before said board in person or by attorney. In all cases of refusal or revocation the applicant may appeal to the appointing power of said board.

§ 4. LICENSES TO BE FILED.] The person so receiving said license shall file the same or a certified copy thereof with the register of deeds where he or she resides, and said register of deeds shall file said certificate or copy thereof, and enter a memorandum thereof, giving date of said license and name of person to whom same was issued, and the date of such filing, in a book to be provided and kept for that purpose, and a list of all certificates on file in his office, and upon notice to him of the change of location or death of a person so licensed, or of the revocation of the license granted to such person, said register of deeds shall enter at the appropriate places in the record so kept by him a memorandum of said fact; so that the record so kept by the said register of deeds shall correspond with the records of the said board as kept by the secretary thereof. In case a person so licensed shall move into another county of this State, he or she shall procure from the register of deeds a certified copy of said license, and file the same with the register of deeds in the county in which he or she shall remove. Said register of deeds shall file and enter the same with like effect as if the same was the original license.

§ 5. WHO EXEMPT FROM PROVISIONS OF THIS ACT.] This act shall not apply to commissioned surgeons of the United States army or navy, to the physicians or surgeons in actual consultation from other states or territories, or to actual medical students practicing medicine under the direct supervision of a preceptor.

§ 6. PENALTY FOR PRACTICING WITHOUT LICENSE.] Any person practicing medicine, surgery or obstetrics in this State without first having obtained the license herein provided for, or contrary to the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof in any court of competent jurisdiction, shall be fined not less than fifty (50) dollars nor more than two hundred (200) dollars, or by imprisonment in the county jail not less than ten days nor more than sixty days, or both fine and imprisonment. Any person shall be regarded as practicing within the meaning of this act who shall append the letters "M. D." or "M. B." to his or her name, or for a fee prescribe, direct or recommend for the use of any person, any drug or medicine, or other agency for the treatment, care or relief of any wound, fracture or bodily injury, infirmity or disease; *Provided, however,* This act shall not apply to dentists. It shall be the duty of the respective state's attorneys to prosecute violations of this act.

§ 7. All acts and parts of acts heretofore passed inconsistent with the provisions of this act are hereby repealed.

Approved January 10, 1890.

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## MILITIA.

### CHAPTER 94.

[S. F. 183.]

#### SUSPENSION OF MILITIA LAWS.

AN ACT to Reduce the Expenses of the State by Suspending Sections 7 and 14 of Chapter 113, Laws of 1885, and Sections 20, 37 and 69 of Chapter 100, Laws of 1887, Relating to the Militia, and to Make Appropriations for Armory Rent of Companies, and for Adjutant General's Salary and Expenses.

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

§ 1. MILITIA LAWS SUSPENDED.] Sections 7 and 14 of Chapter 113 of the General Laws of 1885, and Sections 20, 37 and 69 of Chapter 100 of the General Laws of 1887, are hereby suspended and made inoperative until the second Tuesday of January, 1893, and from and after that date they shall be in full force and effect the same as if this act had never been passed.

§ 2. APPROPRIATION FOR ARMORY RENT, AND SALARY ADJUTANT GENERAL.] During the suspension provided for in Section 1, there is hereby appropriated out of the State Treasury the sum of three hundred (300) dollars a year for armory rent of each company, troop or battery that shall maintain its organization at its own expense, which sum shall be paid quarterly in advance. There is further appropriated the sum of four hundred (400) dollars a year for salary and expenses of the Adjutant General.

§ 3. EMERGENCY.] An emergency exists in this, that it is necessary to reduce the expenses of the State; therefore, this act shall take effect from and after its passage and approval.

Approved March 20, 1890.

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# MUNICIPALITIES.

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## CHAPTER 95.

[S. F. 203.]

### ASSESSMENTS FOR LOCAL IMPROVEMENTS IN INCORPORATED CITIES.

AN ACT Entitled "An Act to Amend Article 15, Sections 1 and 15, Chapter 73, Laws of 1887."

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

§ 1. ASSESSMENT FOR LOCAL IMPROVEMENTS.] Amend Section 1 Article 15, Chapter 73, Laws of 1887 to read as follows: "The city council shall have power to make assessments for local improvements on property adjoining or benefitted thereby, including extension of water mains in cities exclusively owning and operating a public system of water works, and collect the same in the manner hereinafter provided, and to fix, determine and collect penalties for non-payment of any special assessment and taxes."

§ 2. IMPROVEMENTS OF STREETS, ALLEYS AND GROUNDS, HOW MADE.] Amend section 15, Article 15, Chapter 73, Laws of 1887 to read as follows: "When the city council shall deem it necessary to open, widen, extend, grade, pave, macadamize, bridge, curb, gutter, drain, or otherwise improve any street, alley, avenue, lane or highway, or other public grounds within the city limits or extend or improve any public system of water works exclusively owned and operated by the said city for which a special assessment is to be levied, as herein provided, the city council shall, by resolution, declare such work or improvement necessary to be done, and such resolution shall be published for four consecutive weeks, at least once a week in the official newspaper of the city, and if a majority of the owners of the property liable to be assessed therefor, shall not within twenty days after the expiration of such publication file with the city auditor a written protest against such improvement, then the city council shall have power to cause such improvement to be made and to contract therefor, and to levy and collect the assessment as hereinafter provided, and all work done under this section shall be let by contract to the lowest responsible bidder therefor."

Approved March 20, 1890.



## CHAPTER 96.

[S. F. 225.]

## ASSESSMENT FOR LOCAL IMPROVEMENTS IN CERTAIN CASES.

AN ACT Entitled "An Act Relating to Local Improvements in Cities not Organized and Incorporated Under the General Law for the Incorporation of Cities."

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

§ 1. ASSESSMENTS FOR LOCAL IMPROVEMENTS.] The city council of any city not organized or incorporated under the general law for the incorporation of cities shall have power to make assessments for local improvements on property adjoining or benefitted thereby, including extension of water mains in such cities, owning and operating exclusively a public system of water works, to collect the same in the manner hereinafter provided, and to fix and determine and collect penalties for non-payment of any such special assessment and taxes.

§ 2. IMPROVEMENTS OF STREETS, ALLEYS AND GROUNDS, HOW MADE.] When the city council of such city shall deem it necessary to open, widen, extend, grade, pave, macadamize, bridge, curb, gutter, drain or otherwise improve any street, alley, lane or highway, or other public grounds within the city limits, or extend or improve any public system of water works exclusively owned and operated by the said city for which a special assessment is to be levied, as herein provided, the city council shall, by resolution, declare such work or improvement necessary to be done, and such resolution shall be published for three consecutive weeks, at least once a week, in the official newspaper of the city, and unless a majority, in value, of the owners of the property liable to be assessed therefor, shall, within twenty days after the expiration of such publication, file with the city clerk or auditor a written protest against such improvement, then the city council shall have power to cause such improvement to be made and to contract therefor, and to levy and collect the assessment by levy upon the property so benefitted in the manner and at the time other taxes are collected, and all work done under this section shall be let by contract to the lowest responsible bidder therefor.

§ 3. All acts or parts of acts, either general or special, conflicting or inconsistent with the provisions of this act are hereby repealed.

Approved March 31, 1890.

## CHAPTER 97.

[S. F. 88.]

## MUNICIPAL BONDS.

AN ACT Amending Section 1 of Chapter 16 of the Acts of the Seventeenth Session of the Legislative Assembly of the Territory of Dakota, Entitled "An Act to Provide for the Issuance of Bonds by Cities and Municipal Corporations in the Territory of Dakota for School and Other Purposes."

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

§ 1. BONDED INDEBTEDNESS, FOR WHAT PURPOSES MAY BE INCURRED—LIMIT OF.] Any city or municipal corporation of this State organized under and by virtue of a special charter or under and by virtue of a general law of this State, may incur a bonded indebtedness for the purpose of erecting public school buildings and other buildings for city purposes, purchasing fire apparatus, putting in water works, sinking public wells or cisterns and putting in sewers, and improving streets, which said indebtedness, together with the indebtedness which then exists shall not exceed 5 per cent. upon the assessed valuation of the taxable property in said city or municipal corporation as shown by the return of the assessor for the year next preceding the time at which said indebtedness shall be incurred.

§ 2. EMERGENCY.] Whereas, an emergency exists in that it is important that the limit of indebtedness fixed in said Chapter 16 be in accord with the provisions of Section 183 of the Constitution; therefore, this act shall take effect from and after its passage and approval.

Approved March 20, 1890.

## CHAPTER 98.

[S. F. 127.]

## INCREASING TAX LEVY FOR MUNICIPAL PURPOSES.

AN ACT to Amend Section 4, Chapter 139 of the General Laws of 1887, Entitled "An Act to Authorize Cities and Towns and Villages to Levy and Collect Taxes for Municipal Purposes.

*Be it Enacted by the Legislative Assembly of the State of North Dakota.*

§ 1. LIMIT OF MUNICIPAL TAX.] To levy and collect taxes not exceeding twenty (20) mills on the dollar for all other municipal

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purposes in any one year, on all taxable property within said municipality, and taxes so levied and collected to be kept in a fund to be called the general fund.

§ 2. EMERGENCY.] Whereas, the fact exists that the tax levy is made long before July 1, an emergency exists and this act shall take effect and be in force from and after its passage and approval.

Approved March 31, 1890.

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## CHAPTER 99.

[H. F. 256.]

### EMPOWERING CITIES TO ACQUIRE TITLE TO CERTAIN REAL ESTATE.

AN ACT to Empower Cities and Villages to Acquire Real Estate by Gift or Devise for Parks and Public Grounds, and Protection of Such Real Estate.

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

§ 1. HOW CITIES MAY ACQUIRE TITLE TO REAL ESTATE.] Cities and villages in this State are empowered and authorized to receive by gift or devise, real estate within their corporate limits or within five miles thereof for purposes of parks or public grounds. Such real estate shall be vested in the city or village upon the conditions imposed by the donors, and upon the acceptance by the mayor and city council or the board of trustees, the jurisdiction of the city council or board of trustees shall be hereby extended over such real estate. The city council and board of trustees of villages shall have power to enact by-laws, rules and ordinances for the protection and preservation of any real estate acquired as herein contemplated, and to provide suitable penalties for the violation of any such by-laws, rules or ordinances. The police powers of any city or village that shall acquire any real estate as herein contemplated shall be at once extended over the same by virtue of this act.

Approved March 18, 1890.

## CHAPTER 100.

[H. F. 279.]

## AMENDING GENERAL LAW FOR INCORPORATION OF CITIES.

AN ACT Amending Articles 4, 9 and 16, of Chapter 73 of the General 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. LIMIT OF CITY INDEBTEDNESS.] That Subdivision 5 of Section 1 of Article 4 of the General Laws of 1887 be amended to read as follows:

"5. To borrow money on the credit of the corporation for corporate purposes and to issue bonds therefor, in such amounts and form, and on such conditions as it shall prescribe, but shall not become indebted in any manner, or for any purpose to an amount, including existing indebtedness, to exceed 5 per centum of the taxable property therein as determined by the last preceding city assessment; *Provided*, That any incorporated city may, by a two-thirds vote, increase such indebtedness 3 per centum on such assessed value beyond said 5 per cent. limit; and such city shall provide for the collection of a direct annual tax sufficient to pay the interest on such debt when it falls due, and also to pay and discharge the principal thereof within twenty years after contracting the same; *Provided*, No bonds shall be issued under the provisions of this act, either for general or special purposes, except as hereinafter otherwise provided, unless at an election after twenty days' notice in a newspaper published in the city, stating the purpose for which said bonds are to be issued and the amount thereof, the legal voters of said city, by a majority vote shall determine in favor of issuing said bonds."

§ 2. REFUNDING BONDS, HOW MAY BE ISSUED.] That Subdivision 6 of Section 1 of Article 4 is amended to read as follows:

"6. To issue bonds in place of or to supply means to meet maturing bonds or for the consolidation or funding of the same, or consolidation or funding of any floating indebtedness created by such city prior to the second day of November, A. D. 1889, and such bonds may be issued upon resolution of the city council at a general meeting upon the three-fourths vote of all the aldermen elect."

§ 3. AMENDMENT.] That Section 8 of Article 9, is amended to read as follows:

“Sec. 8. COUNTY TREASURER TO COLLECT TAXES AND PAY OVER TO CITY TREASURER.] The county treasurer of such county shall collect and enforce the collection of the city and school tax with, and in the same manner as other taxes, and shall pay over to the city treasurer on the first of every month on demand, all such taxes so collected during the preceding month, together with the interest and penalties accrued thereon, retaining 2 per cent. of the amount so collected, as his commission for collecting the same (and shall forthwith notify the city auditor of the amount so paid over). He shall take duplicate receipts for all such amounts so paid to the city treasurer, one of which shall be forthwith sent to the city auditor.”

§ 4. AMENDMENT.] That Section 6, of Article 16, be amended to read as follows:

“Sec. 6. BONDS FOR SEWERAGE OR WATER WORKS, HOW ISSUED.] The city council, for the purpose of raising funds to pay for the establishment, construction and maintenance of such system of sewerage, and for the purpose of constructing or purchasing water works and for furnishing a supply of water to the inhabitants of such city, shall have power to issue the bonds of the city to an amount not exceeding 4 per centum upon the assessed value of the taxable property of such city, as determined by the last preceding assessment, payable in not to exceed twenty years from the date thereof, drawing interest semi-annually at the rate of not exceeding 7 per cent. per annum, payable either in New York City or in the city issuing the same, and which shall be signed and executed as provided in the article on special assessments of the said act; *Provided*, That at no time shall there be bonds outstanding or unpaid more than an amount equal to 4 per cent. of the assessed valuation of the taxable property of such city, as determined by the last preceding assessment, and such bonds shall not be negotiated for less than one hundred (100) cents on the dollar.”

§ 5. DUTIES OF SPECIAL SEWERAGE ASSESSMENT COMMITTEE.] That Subdivision 2 of Section 7 of Article 16, be amended to read as follows:

“2. It shall be the duty of such committee to personally inspect any and all lots, parts of lots and parcels of land fronting or abutting upon the work contracted for, as hereinafter set forth, or benefitted thereby, and thereupon assess against all such lots and parcels of land, which will in the opinion of such committee be specially benefitted by the construction of such system of sewerage, a special assessment of such benefit. Whenever such assessment is made and completed as to all the lots, parts of lots or parcels of land to be benefitted specially by the work under any one contract, the said committee shall make or cause to be made a complete list thereof, setting forth the several tracts so assessed, and the amount assessed against each, and cause the same to be

published for three consecutive weeks in the official newspaper of the city, together with a notice of the time and place, when and where such committee will meet to hear objections to such assessments. At the time and place mentioned in such notice the said committee will meet and hear any and all objections which shall be made to any such assessment by any owner or occupant of a tract so assessed, or his or their agent or attorney, and thereupon alter or affirm the same as may in the opinion of such committee be just in the premises. The committee shall then deposit such assessment list with the city auditor, who shall forthwith cause the same to be again published for three consecutive weeks in the official newspaper of the city, with a notice to the persons interested that at the next regular meeting of the city council after expiration of the time of publication of such notice, giving the date thereof, appeals from the decision of such committee in relation thereto will be heard and determined by the city council."

§ 6. AMENDMENT.] That Subdivision 4 of Section 7 of Article 16, be amended by striking out the words, "Provided, further, that no lot, part of lot or parcel of land shall be specially assessed more than once for sewerage purposes," where they occur in the latter part of said subdivision.

§ 7. EMERGENCY.] An emergency existing, in that cities within the State desire to proceed at once to adopt a system of sewerage, this bill shall take effect immediately on its passage and approval.

Approved March 14, 1890.

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## NOTARIES PUBLIC.

### CHAPTER 101.

[H. F. 124.]

#### GOVERNING THE APPOINTMENT OF NOTARIES PUBLIC.

AN ACT to Amend Sections 1 and 2, Chapter 45, General Laws of 1879, and Sections 2 and 3, Chapter 17 of the Political Code Governing the Appointment of Notaries Public, Extending the Appointive Power of the Governor to Unorganized Counties.

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

§ 1. AMENDMENT.] That Section 1, Chapter 45, of the General Laws of 1879, be amended to read as follows:

"Sec. 1. NOTARIES, HOW APPOINTED.] The Governor shall appoint in each of the organized and unorganized counties in this State, from among the eligible citizens thereof, one or more notar-

ies public, who shall hold their office for four years, unless sooner removed by the Governor, each of whom shall have power and authority anywhere in the State to administer oaths and perform all other duties required of them by law. The Secretary of State shall issue a commission and duplicate thereof to each notary public appointed by the Governor, one of which shall be by said notary public posted in a conspicuous place in his office for public inspection; and the Secretary shall collect and receive two (2) dollars for the issuance of said commission and duplicate, which two (2) dollars shall be paid into the State Treasury and credited to the general fund. The Secretary shall keep in his office a careful record of such appointments and the date of expiration, and shall notify each notary by mailing, at least thirty days before the expiration of his term, a notice of the date upon which his commission expires, which notice shall be addressed to said notary at his last known place of residence."

§ 2. AMENDMENT.] That Section 2, Chapter 45, General Laws 1879, be amended so as to read as follows:

"Sec. 2. NOTARY TO FILE COMMISSION.] Every notary public before he enters upon the duties of his office, shall file his commission for record with the clerk of the district court of his county or subdivision, or of the county to which his county is attached for judicial purposes, and shall deposit with such clerk an impression of his seal, together with his official signature; and the said clerk shall record the same in a book kept for that purpose; and it shall be deemed sufficient evidence to enable such clerk to certify that the person so commissioned is a notary public during the time such commission is in force."

§ 3. AMENDMENT.] That Section 2, Chapter 17, of the Political Code be amended so as to read as follows:

"Sec. 2. OATH—BOND.] Each and every notary public, before he enters on the duties of his office, shall take an oath to support the Constitution of the United States and the Constitution of this State, and to faithfully and impartially discharge the duties of his said office, and shall give bond to the people of the State to be approved by the clerk of the district court of his county, or of the county to which his county is attached for judicial purposes, or judicial subdivision thereof, with one or more sureties, in the penal sum of five hundred (500) dollars, conditioned for the faithful discharge of the duties of his said office."

§ 4. AMENDMENT.] That Section 3, Chapter 17, of the Political Code, be amended to read as follows:

"Sec. 3. RECORDS OF NOTARY IN CASE OF VACANCY, WHERE TO BE DEPOSITED—PENALTY.] Whenever the office of any notary public shall become vacant, the records of said notary public, together with all the papers relating to the office, shall be deposited in the office of the clerk of the district court in the county in which the said notary public resides, or of the county to which his county is attached for judicial purposes, and any notary public who, on his

resignation or removal from office, shall neglect to deposit such records and papers in the clerk's office as aforesaid, for the space of three months, shall forfeit and pay a sum not less than fifty (50) dollars, nor more than five hundred (500) dollars; and if any executor or administrator of any deceased notary public shall neglect to lodge such records and papers as aforesaid, which come into his hands, in the clerk's office, for the space of three months after said records and papers shall come into his possession, he shall forfeit and pay a sum of not less than fifty (50) dollars, nor more than five hundred (500) dollars; and if any person shall knowingly destroy, deface or conceal any records or papers of any notary public, he shall forfeit and pay a sum of not less than fifty (50) dollars, nor more than five hundred (500) dollars, and shall moreover be liable to an action by the party injured."

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

§ 6. EMERGENCY.] Inasmuch as there is no provision of law for the appointment of notaries public in unorganized counties, hence, an emergency exists, therefore, this act shall be in force and effect from and after its passage and approval.

Approved March 18, 1890.

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## NOXIOUS WEEDS.

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### CHAPTER 102.

[H. F. 35.]

#### MANNER OF DESTROYING NOXIOUS WEEDS.

AN ACT to Amend Section 1, General Laws 1885, Supplement, Relating to Noxious Weeds.

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

§ 1. MANNER OF DESTROYING NOXIOUS WEEDS TO BE PRESCRIBED—NOTICE OF TO BE PUBLISHED—FEES—WHEN EXPENSE ENTERED AS TAX AGAINST PROPERTY.] Every person and every corporation shall destroy upon all lands which he or she shall occupy, all weeds of the kind known as Canada thistles, cockle burr, mustard, wild oats, French weeds (*arena fatua*) and Russian cactus (*solsola colina pall*) 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 township boards of supervisors or



by board of county commissioners in counties which shall not be organized into townships and the same shall be published at least two weeks in some newspaper published in the county, not less than two weeks before the time so prescribed; *Provided*, 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 publication. Every overseer of highway of every township or county shall also in like time and manner destroy all such weeds that may grow either on the highway of his road district or on any unoccupied land therein, which the occupant thereof shall refuse or neglect to so destroy. For so doing such overseer 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 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.

Approved February 17, 1890.

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## OBSCENE LITERATURE.

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### CHAPTER 103.

[H. F. 79.]

#### SALE OR EXHIBITION TO MINORS PROHIBITED.

AN ACT to Suppress in this State the Selling, Lending, Giving Away, or Showing to any Minor Child, any Paper or Publication Principally Devoted to Illustrating or Describing Immoral Deeds.

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

§ 1. SELLING OR SHOWING OBSCENE LITERATURE TO MINORS UNLAWFUL.] It shall be unlawful for any person in this State to sell, lend, give away, or show, or have in his possession with intent to sell, or give away, or show, or advertise, or otherwise offer

for loan, gift, or distribution to any minor child any book, pamphlet, magazine, newspaper, story paper, or other printed paper devoted to the publication or principally made up of criminal news, police reports, or accounts of criminal deeds, or pictures and stories of deeds of bloodshed, lust, or crime.

§ 2. EXHIBITION OF UNLAWFUL.] It shall be unlawful to exhibit in this State upon any street or highway, or in any place within the view, or which may be within the view of any minor child, any book, magazine, pamphlet, newspaper, story paper, or other paper or publication coming within the description of matters mentioned in the first section of this act, or any of them.

§ 3. PENALTY.] It shall be unlawful for any person to hire, use, or employ any minor child, to sell or give away, or in any manner to distribute, or who, having the care, custody, or control of any minor child, to permit such child to sell, give away, or in any manner to distribute any book, magazine, pamphlet, newspaper, story paper, or other paper or publication coming within the description of matters mentioned in the first section of this act, and any person violating any of the provisions of this act shall be guilty of a misdemeanor, and on conviction shall be fined in any sum not exceeding five hundred (500) dollars, or imprisoned in the county jail of the county where the offense was committed not to exceed six months, or both fined and imprisoned, at the discretion of the court.

Approved February 6, 1890.

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## CHAPTER 104.

[H. F. 196.]

### EXCLUDING MINORS FROM TRIALS OF OBSCENE NATURE.

AN ACT Authorizing the Exclusion of Certain Persons From the Trial of Causes of a Scandalous or Obscene Nature.

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

§ 1. WHEN MINORS MAY BE EXCLUDED FROM COURT.] That when in any court a cause of a scandalous or obscene nature is on trial, the presiding judge or justice may, in his discretion, exclude therefrom all minors not necessarily present as parties or witnesses.

Approved March 3, 1890.

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# OFFICIAL OATHS.

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## CHAPTER 105.

[H. F. 284.]

### CIVIL OFFICERS.

AN ACT to Amend Sections 3 and 4 of the Political Code, Being Section 1372 of the Compiled Laws, Providing the Oath of Civil Officers.

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

§ 1. AMENDMENT.] That Section 3, of the Political Code, being part of Section 1372, compiled laws, be amended to read as follows:

“Sec. 3. OATH OF CIVIL OFFICERS.] Every civil officer in this State, before entering upon the duties of his office, shall 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 . . . . (naming the office) according to the best of my ability, so help me God,’ (if an oath), (under pain and penalties of perjury, if an affirmation). Such oath shall be endorsed upon the back of or attached to his bond, in case of an officer required to give a bond, and endorsed upon the back of or attached to the commission, appointment or certificate of election, in case of an officer not required to give bond.”

§ 2. REPEAL.] That Section 4 of the Political Code, being part of Section 1372 of the Compiled Laws, be and the same is hereby repealed.

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

§ 4. EMERGENCY.] An emergency exists in this, that there is no law prescribing the form of oath to be taken by civil officers as contemplated by the Constitution of this State; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 18, 1890.

## CHAPTER 106.

[S. F. 84.]

AUTHORIZING JUDGES OF DISTRICT COURTS TO ADMINISTER  
OATHS.

AN ACT Authorizing the Judges of the District Courts to Administer Oaths.

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

§ 1. DISTRICT JUDGE MAY ADMINISTER OATHS.] Each judge of the district court is hereby authorized to administer oaths in addition to the officers and persons now authorized by law to administer oaths.

§ 2. EMERGENCY.] There being no law now in force authorizing the judges of district courts to administer oaths, an emergency is hereby declared to exist, and this act shall take effect and be in force from and after its passage and approval.

Approved February 20, 1890.

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OIL INSPECTION.

## CHAPTER 107.

[S. F. 142.]

## PRESCRIBING THE DUTIES OF OIL INSPECTOR.

AN ACT to Provide for the Inspection of Illuminating Oils Manufactured from Petroleum or Coal Oils.

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

§ 1. INSPECTOR, HOW APPOINTED—REMOVAL.] There shall be appointed by the Governor, by and with the advice and consent of the Senate, a suitable person, resident of this State, who is not interested in manufacturing, dealing or vending any illuminating oils manufactured from petroleum, as State Inspector of Oils, whose term of office shall be two years from the date of his appointment or until his successor shall be appointed and qualified;

*Provided*, That the first inspector appointed under the provisions of this act shall be appointed for the term of one year. The Governor shall have power to remove such person from office whenever it shall appear to him from good and sufficient evidence that such officer is guilty of malfeasance or nonfeasance in the performance of his duty, and may fill any vacancy arising from such removal, from resignation, death or removal from the State, by a new appointment.

§ 2. OILS, HOW INSPECTED.] It shall be the duty of said State Inspector of Oils to examine and test, as provided in this act, the quality of all mineral or petroleum oil or any oil, fluid or substance which is a product of petroleum or into which petroleum or any product of petroleum enters or is found as a constituent element, whether manufactured within this State or not, before the same is offered for sale or sold for consumption for illuminating purposes within the State; and such inspection shall be conducted as herein provided, in the following manner: The test shall be made in a test cup known as the "Foster cup" or "Foster's automatic oil tester;" and it is lawful to sell for illuminating purposes any oil or oils herein described to be consumed within the State, which bear a flash test of 100 degrees Fahrenheit, as shown by said apparatus.

§ 3. DEPUTIES—BONDS—DUTIES AND POWERS OF INSPECTORS—STATE INSPECTOR'S DECISION FINAL.] The person appointed State Oil Inspector shall, before he enters upon the duties of his office, take an oath or affirmation prescribed by the laws of this State, and shall execute a bond to the State of North Dakota in the sum of \$5,000, with such sureties as shall be approved by the Governor of this State, conditioned for the faithful performance of his duties under this act, which bond so approved shall be filed with the Secretary of State. The State Inspector, when so appointed and qualified, is empowered to appoint a suitable number of deputies who are not interested in manufacturing, dealing in or vending any illuminating oil manufactured from petroleum, who are empowered to perform the duties of inspection of oils and are liable to the same penalties as the State Inspector, and the State Inspector may remove any of the deputies for reasonable cause and appoint others in their place. Each deputy inspector appointed shall, before entering upon the duties of his office, take a like oath or affirmation, and execute a bond as aforesaid of not less than \$1,000 nor more than \$5,000, as may be directed by the State Inspector, which bond, with such sureties as shall be approved by the judge of probate, be, with his approval thereon, filed in the office of the clerk of the district court for the county to which such deputy inspector is appointed. Such State Inspector and his deputies are hereby empowered to and shall, upon application and the tender of fees herein provided, enter into any store, shop or warehouse in which such illuminating oils as are hereinbefore mentioned are kept for sale, and in-

spect and test such oils, branding the barrels in which the same are contained as provided in this act. Such State Inspector and his deputies are hereby empowered to, and shall upon application and the tender of fees herein provided, during business hours inspect and test all illuminating oils standing upon a railway track in what is known as a tank railroad car, in which it is shipped into this State, and the same shall not be drawn off into a warehouse tank or unloaded until so inspected, and no oil subject to test as herein provided shall be drawn off or removed from the tank, cask, barrel or other vessel in which it has been shipped into this State, until the same has been tested as herein provided. When said oil in the tank, railroad car, or in the cask, barrel or other vessel in which it has been shipped, has been inspected as provided above, no other inspection shall be necessary, but the inspector and his deputies shall, when such oil is put into barrels, brand the same as provided in this act without charge. The inspector and his deputies shall be authorized and empowered in case they, or either of them, shall find on the premises of any person, firm or corporation any illuminating oils which appear to be uninspected, to duly inspect the same, and shall charge therefor the fees allowed by this act, and shall have a lien on such oils so inspected for such fees, which lien may be enforced as provided in cases of liens on personal property. The decision of any deputy inspector on any barrel of oil shall be subject to appeal to the State Inspector, whose decision shall be final.

§ 4. FEES FOR INSPECTION.] Such State Oil Inspector or deputies shall be entitled to demand or receive from the owner or party calling upon him, or for whom he shall inspect, the sum of forty (40) cents for testing and marking a single barrel; thirty (30) cents each when not exceeding five in number; twenty-five (25) cents each when not exceeding ten in number, and fifteen (15) cents per barrel when the number of barrels is greater than ten submitted at one time for inspection. When the amount contained in any tank, cask or other vessel shall exceed fifty gallons, each fifty gallons shall constitute a barrel within the meaning of this section. The fees herein authorized shall have lien on the oils inspected as provided in Section 3 of this act. All oils in quantities less than fifty barrels shall be inspected at a railroad or river station, unless the party requesting such inspection shall pay the inspector in advance in addition to the compensation heretofore provided by law, ten (10) cents per mile for each mile necessarily traveled in going to and returning from the place where such inspection is to be made; the distance to be computed from the place of residence of such inspector.

§ 5. DUTY TO INSPECT WHEN CALLED ON—PENALTY FOR SELLING REJECTED OILS.] The State Inspector and his deputies shall provide themselves at their own expense with the necessary instruments and apparatus and stencils, brands and stamps for testing and marking the quality of illuminating oils, and when called upon

for that purpose shall promptly inspect all oils herein mentioned, and reject from illuminating purposes for consumption in this State, all oils which, by being adulterated with naphtha, benzine, parafine or other light oils or other substance, or for any other reason will not stand and be equal to the test herein prescribed. The State Inspector shall prepare the forms of all stencils, brands and stamps provided for in this act, and also all necessary regulations and rules for inspection, not inconsistent with the terms and provisions of this act, and such rules and regulations shall be binding on all his deputies in the State. The State Inspector and his deputies are required to test the quality of all mineral or petroleum oils, or any oil or any oil fluid or substance which is a product of petroleum, or into which petroleum or any product of petroleum enters or is found as a constituent element which is offered or intended to be offered, for sale for illuminating purposes in this State, and if upon such testing or examination the same meets the requirements herein specified, the State Inspector or his deputies shall affix by stencil or brand on any cask, barrel or other vessel containing the same, and by a stamp subscribed with his official signature, the word "approved," with the date of such inspection, and it will then be lawful for any manufacturer, vendor or dealer to sell the same to be consumed within this State as an illuminator; but if the oil so tested does not meet such requirements he shall mark by stencil or brand, in plain letters, on any cask, barrel or other vessel, containing the same and by a stamp subscribed with his official signature, the words "rejected for illuminating purposes," giving the date of such inspection, and it is unlawful for the owner thereof to sell oil so branded as rejected to be consumed within the State for illuminating purposes. Any person so selling or disposing of such oil shall be deemed guilty of a misdemeanor and shall, on conviction thereof, be subject to a fine in any sum not exceeding five hundred (500) dollars, or be imprisoned in the county jail for a term not exceeding six months, or both, at the discretion of the court. *Provided,* That the State Inspector or his deputies may, in their discretion, without fee at any time subject such oils to a reinspection as provided in Section 2 of this act, and if on such reinspection any of such oil shall fail to meet the requirements of this act, the inspector or deputy shall erase the brand "approved" from the barrel or other vessel containing such oil, and shall brand thereon the words "rejected for illuminating purposes," and it shall thereafter be unlawful to sell or dispose of such oil, and the person or persons so offending shall be guilty of a misdemeanor and shall be subject to the penalty in this section provided.

§ 6. INSPECTOR TO KEEP RECORD.] It shall be the duty of every deputy inspector to keep a true and accurate record of all oil inspected by him, which record shall state the date of inspection, the number of barrels, so near as they can be ascertained, and the name of the person for whom inspected, and shall make to the

State Inspector at the end of each month a report containing a true transcript of such record, and it shall be the duty of the State Inspector to keep a like record of all oils inspected by him, and at the end of each year to make a report to the Secretary of State of the number of barrels so inspected, and the name of the person for whom inspected, also amount of inferior or unsafe oils for illuminating purposes, with the name of dealer in whose hands found, and from whom received by said dealer. Such record shall be open to the inspection of any and all persons interested.

§ 7. PENALTY FOR SELLING UNINSPECTED OILS, AND FOR FALSE BRANDS.] If any person sells or attempts to sell in this State any such oils to be consumed within the State for illuminating purposes, whether manufactured in the State or not, without first having the same inspected, as provided in Section 2 of this act, he shall be guilty of a misdemeanor, and on conviction thereof shall be fined in any sum not less than one hundred (100) dollars and not exceeding five hundred (500) dollars, and if any person falsely brands any cask, barrel or other vessel as provided in Section 5 of this act, or refills or uses any barrel having the inspection brand thereon without having the oil therein inspected, he shall be deemed guilty of a misdemeanor, and on conviction thereof he shall be subject to a fine in any sum not exceeding five hundred (500) dollars, or to be imprisoned in the county jail for a term not exceeding six months, or both, at the discretion of the court.

§ 8. SAME.] Whoever knowingly uses, sells, or offers for sale for illuminating purposes any oil or product of petroleum, except as hereinafter provided, before the same has been inspected and branded as provided in Section 5 of this act, shall be deemed guilty of a misdemeanor and subject on conviction thereof, to a fine in any sum not exceeding one hundred (100) dollars, or be imprisoned in the county jail for a term not exceeding sixty days, or both, at the discretion of the court.

§ 9. PENALTY FOR FAILURE TO DESTROY BRAND ON EMPTY CASK.] Any person selling or dealing in illuminating oils produced from petroleum who sells or disposes of an empty cask or barrel, which has been branded by the State Inspector or deputy before cancelling, removing and effacing the inspection brand on the same, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be subject to a fine in any [sum] not exceeding five (5) dollars for each cask or barrel thus sold or disposed of.

§ 10. PENALTY FOR ADULTERATION.] No person shall fraudulently adulterate with any substance whatever for the purpose of sale, or for use for illuminating purposes, any oil obtained from petroleum or obtained from coal in such manner as to render it dangerous to use, nor shall any person knowingly sell or offer for sale any oil obtained from petroleum or from coal, or from the product of either, for illuminating purposes within this State which, by reason of being adulterated, or for any reason whatever,



will flash at a temperature less than 100 degrees Fahrenheit's thermometer, under the test herein prescribed in this act. Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and on conviction thereof shall be subject to a fine in any sum not exceeding five hundred (500) dollars, or be imprisoned in the county jail for a term not exceeding six months, or both, at the discretion of the court.

§ 11. LIABILITY FOR VIOLATION OF THIS ACT.] Whoever knowingly sells or keeps for sale to be consumed in the State any illuminating oil manufactured from petroleum or its products, and not inspected as provided in this act, shall be responsible to any party or parties injured for any violation of the provisions of this act by himself or by any clerk or person in his employ in the sale of such oil.

§ 12. COMPLAINTS FOR VIOLATION.] The State Inspector or any deputy who knows of the violation of any of the provisions of this act shall enter complaint before any court of competent jurisdiction against the person so offending, and in case the State Inspector or any deputy having knowledge of the violation of the provisions of this act neglects to enter complaint as required and provided for in this act, he shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined in any sum not exceeding one hundred (100) dollars, and shall be removed from his office as such State Inspector or deputy inspector.

§ 13. INSPECTORS PROHIBITED FROM DEALING IN OILS.] No State Inspector or deputy inspector shall while in office traffic directly or indirectly, in any article in which petroleum or other product thereof is a constituent part which he is appointed to inspect, and in case of any violation of the provisions of this section, by the State Inspector or any deputy inspector, he shall be deemed guilty of a misdemeanor, and on conviction thereof, he shall be fined in any sum not exceeding five hundred (500) dollars and be removed from his office as such inspector or deputy.

§ 14. FURTHER PENALTY.] Any person violating any of the provisions of this act, for which violation a penalty is not herein expressly provided, shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be punished by a fine not exceeding five hundred (500) dollars or by imprisonment in the county jail for a period not exceeding six months, or by both such fine and imprisonment in the discretion of the court.

§ 15. WHAT EXEMPT FROM THIS ACT.] Nothing in this act shall prevent the use of gas or vapor from oils for illuminating purposes when the oils from which said gas or vapor is generated are contained in closed reservoirs outside of the building illuminated or lighted by said gas, nor shall anything in this act be so construed as to prevent the use in street lamps of lighter products of petroleum, such as gasoline, benzine, benzole and naphtha.

§ 16. PROSECUTIONS.] All prosecutions under this act shall be prosecuted in the name of the State of North Dakota.

§ 17. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

Approved March 10, 1890.

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## PHARMACY.

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### CHAPTER 108.

[S. F. 123.]

#### REGULATING THE PRACTICE OF PHARMACY.

AN ACT to Regulate the Practice of Pharmacy, the Licensing of Persons to Carry on Such Practice, and the Sale of Poisons in the State of North Dakota.

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

§ 1. WHO MAY COMPOUND.] That it shall be unlawful for any person other than a registered pharmacist to retail, compound or dispense drugs, medicines or poisons, or to institute or conduct any pharmacy, store or shop for retailing, compounding or dispensing drugs, medicines or poisons, unless such person shall be a registered pharmacist, or shall employ and place in charge of said pharmacy, store or shop, a registered pharmacist within the full meaning of this act, except as hereinafter provided for.

§ 2. WHO MAY BE REGISTERED PHARMACISTS.] In order to be registered within the full meaning of this act, all persons must either be graduates in pharmacy, or shall have been engaged in the dispensing of drugs and medicines for a period of not less than four years in the preparation of physician's prescriptions, or shall be licentiates in pharmacy.

§ 3. LICENTIATES IN PHARMACY, WHO QUALIFIED.] Licentiates in pharmacy shall be such persons as have had two successive years' practical experience in drug stores wherein the prescriptions of medical practitioners are compounded, and have sustained a satisfactory examination before the State Board of Pharmacy, hereinafter mentioned. The Board of Pharmacy may grant certificates of registration to graduates in pharmacy who have obtained a diploma from such colleges or schools of pharmacy as shall be approved by said board, or to licentiates or such other state or territorial boards as it may deem proper without further examination.

§ 4. BOARD OF PHARMACY, HOW APPOINTED—VACANCIES, HOW FILLED.] Upon the passage of this act the North Dakota Phar-

maceutical Association shall select five reputable and practicing pharmacists doing business in the State, from which number the Governor of the State shall appoint three. The said three pharmacists duly elected and appointed shall constitute the Board of Pharmacy of the State of North Dakota, and shall hold office as designated in their appointments for the term of one, two and three years, as hereinafter provided, and until their successors have been appointed and qualified. Annually thereafter the North Dakota Pharmaceutical Association shall select three pharmacists who shall be members in good standing, from which number the Governor of the State shall appoint one to fill the vacancy annually occurring in said board. The term of office shall be three years. In case of resignation or removal from the State of any member of said board, or of a vacancy occurring from any cause, the Governor shall fill the vacancy by appointing a pharmacist from the names last submitted, to serve as a member of the board for the remainder of the term.

§ 5. ORGANIZATION — DUTIES — EXAMINATION MEETINGS—BOOK OF REGISTRATION.] Said board shall, within thirty days after their appointment and qualification, meet and organize by the selection of a president and a secretary from the number of its own members, who shall be elected for the term of one year, and shall perform the duties prescribed by the board. It shall be the duty of the board to examine all applications for registration submitted in proper form; to grant certificates of registration to such persons as may be entitled to the same under the provisions of this act; to cause the prosecution of all persons violating its provisions; to report annually to the Governor, and to the North Dakota Pharmaceutical Association, upon the condition of pharmacy in the State, which said report shall also furnish a record of the proceedings of said board for the year, as well as the names of all pharmacists duly registered under this act. The board shall hold meetings for the examination of all applicants for registration and transaction of such other business as shall pertain to its duties, at least twice, or not more than four times a year, at the discretion of the board; and the said board shall give thirty days public notice, in three of the pharmaceutical journals of general circulation of the State, of the time and place of such meeting. The said board shall also have power to make by-laws for the proper execution of its duties under this act, and shall keep a book of registration in which shall be entered the names and places of business of all persons registered under this act, which registration book shall also contain such facts, as such persons claim to justify their registration. Two members of said board shall constitute a quorum.

§ 6. REQUIREMENT OF PERSONS CLAIMING REGISTRY.] Every person claiming the right of registration under this act, who shall within three months after the passage of this act, and the organization of this board forward to the board of pharmacy, satisfactory proof supported by his affidavit that he was engaged in the

business of a dispensing pharmacist on his own account in the State of North Dakota at the time of the passage of this act as provided in Section 2 shall, upon the payment of the fee hereinafter mentioned, be granted a certificate of registration; *Provided*, That in case of failure or neglect to register as herein specified, then such person shall, in order to be registered, comply with the requirements provided for registration as licentiates in pharmacy within the meaning of this act.

§ 7. PERSONS NOT AFFECTED.] That the foregoing provisions of this act shall not apply to or effect any person having four consecutive years' experience in the dispensing of and compounding of prescriptions of regular practitioners, and employed as a pharmacist in North Dakota, at the passage of this act, only in so far as relates to registration and fees hereinafter provided for.

§ 8. CERTIFICATES—FEES.] Every person claiming registration as a registered pharmacist under Section 6 of this act shall, before a certificate is granted, pay to the secretary of the State Board of Pharmacy, the sum of two (2) dollars, and a like sum shall be paid to said secretary by such licentiates of other boards who shall apply for registration under this act; and every applicant for registration by examination shall pay to the said secretary the sum of five (5) dollars before such examination be attempted; *Provided*, That in case of failure to pass a satisfactory examination, he may be re-examined at any regular meeting of the board by paying a fee of three (3) dollars.

§ 9. REGISTERED ASSISTANTS, QUALIFICATIONS OF—FEES.] Any assistant or clerk in pharmacy who shall not have the qualifications of a registered pharmacist within the meaning of this act, not less than eighteen years of age, who shall have been employed or engaged two years or more in drug stores where the prescriptions of medical practitioners are compounded, and shall furnish satisfactory evidence to that effect to the State Board of Pharmacy shall, upon making application for registration, and upon payment to the secretary of the said board of a fee of one (1) dollar, be entitled to a certificate as a "registered assistant," which said certificate shall entitle him to continue in such duties as clerk or assistant, but such certificate shall not entitle him to engage in business on his own account, unless he shall have had at least four years' practical experience in pharmacy at the time of the passage of this act. Annually thereafter, during the time he shall continue in such duties, he shall pay to said secretary a sum not to exceed fifty (50) cents, for which he shall receive a renewal of this certificate.

§ 10. ANNUAL FEES—CERTIFICATES TO BE CONSPICUOUSLY POSTED—LIST TO BE PUBLISHED.] Every registered pharmacist who desires to continue the practice of his profession shall, annually during the time he shall continue such practice on such date as the Board of Pharmacy shall determine, pay to the secretary of said board a registration fee, the amount of which shall be fixed by

the board, and which in no case shall exceed two (2) dollars, in return for which payment he shall receive a renewal of said registration. Every certificate of registration and every renewal of such certificate shall be conspicuously exposed in the pharmacy to which it applies. It shall be the duty of every registered pharmacist or assistant pharmacist upon changing his place of business to notify by letter, within thirty days, the secretary of the State Board of Pharmacy of such change, and to inclose a fee of fifty (50) cents, upon receipt of which the secretary shall make the necessary alterations. If not notified within the time specified, the name of such registered pharmacist or assistant pharmacist shall be stricken from the register. The secretary shall publish annually a list of all persons who are duly registered as "registered" pharmacists and "assistant pharmacists," a copy of which shall be mailed free to each "registered pharmacist" and "assistant pharmacist" in the State.

§ 11. SALARIES—DISPOSITION OF FUNDS—ANNUAL REPORTS.] The secretary of the State Board of Pharmacy shall receive a salary which shall be determined by said board; he shall also receive his traveling and other expenses incurred in the performance of his official duties. The other members of said board shall receive the sum of five (5) dollars for each day actually engaged in such service, and all legitimate and necessary expenses incurred in attending the meeting of said board, or while performing strictly official duties. Said expenses shall be paid from the fees and penalties received by said board under the provisions of this act, and no part of the salary or other expenses of said board shall be paid out of the public treasury. All monies received by said board in excess of said allowances and other expenses hereinbefore provided for shall be held by the secretary of said board as a special fund for meeting the expenses of said board; said secretary giving such bonds as the said board shall from time to time direct and approve. The said board shall in its annual report to the Governor, and to the North Dakota Pharmaceutical Association, render an account of all monies received and disbursed by them pursuant to this act.

§ 12. PENALTY FOR NON-COMPLIANCE WITH THIS ACT—EXCEPTIONS.] Any person not being or not having in his employ a registered pharmacist within the full meaning of this [act,] who shall retail, compound or dispense medicines, or who shall take, use or exhibit the title of a registered pharmacist shall be deemed guilty of a misdemeanor, and upon conviction shall for each and every offense be liable to a penalty not to exceed fifty (50) dollars. Any registered pharmacist or other person who shall permit the compounding and dispensing of prescriptions or the vending of drugs, medicines or poisons in his store or place of business except under the supervision of a registered pharmacist, or any pharmacist who while continuing business shall fail or neglect to procure his annual registration, or any person who shall willfully

make any false representation to procure registration for himself or any other person, or who shall violate any other provision of this act shall be deemed guilty of a misdemeanor, and upon conviction shall for each and every offense be liable to a penalty not to exceed fifty (50) dollars; *Provided*, That nothing in this act shall in any manner interfere with the business of any physician in regular practice, nor prevent him from supplying his patients with such articles as may seem to him proper, nor prevent him from receiving a certificate as a registered pharmacist upon his producing a statement from the North Dakota Board of Medical Examiners that he has answered at least 70 per cent. of the questions asked at their examination in chemistry, pharmacy and *materia medica*; *Provided, further*, That physicians registered on account of residence in the State be registered as "registered pharmacists" on presentation of their certificate from the North Dakota Medical Board; nor with the making of proprietary medicines or medicines placed in sealed packages with the name of the contents, and the pharmacist or physician by whom prepared or compounded; nor prevent shop keepers from dealing in and selling the commonly used medicines and poisons, if such medicines are put up by a registered pharmacist, or from dealing in and selling of patent or proprietary medicines, nor with the exclusive wholesale business of any dealers.

§ 13. ADULTERATION OF DRUGS—PENALTY.] Every proprietor or conductor of a drug store, shall be held responsible for the quality of all drugs, chemicals and medicines sold or dispensed by him, except those sold in the original packages of the manufacturer, and except those articles or preparations known as patent or proprietary medicines. Any person who shall knowingly, willfully or fraudulently falsify or adulterate or cause to be falsified or adulterated, any drug or medicinal substance, or any preparation authorized or recognized by any standard work on pharmacy, or used or intended to be used in medical practice, or shall mix or cause to be mixed with any such drug or medicinal substance, any foreign or inert substance whatsoever for the purpose of destroying or weakening its medicinal power and effect, or of lessening its cost, and shall willfully, knowingly or fraudulently sell, or cause the same to be sold for medicinal purposes, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall pay a penalty not exceeding five hundred (500) dollars, and shall forfeit to the State of North Dakota all articles so adulterated.

§ 14. POISONS DEFINED—DEALING IN REGULATED—REGISTER OF SALES OF POISONS TO BE KEPT.] It shall be deemed unlawful for any person to retail any poisons enumerated in schedule "A" and "B," except as hereinafter provided for.

SCHEDULE "A."

Arsenic and its preparations; corrosive sublimate; white precipitate; red precipitate; biniodide of mercury; cyanide of

potassium; hydrocyanic acid; strychnia and all other poisons; vegetable alkaloids and their salts; essential oil of bitter almonds; opium and its preparations, except paregoric and other preparations of opium with less than two grains to the ounce.

SCHEDULE "B."

Aconite; belladonna; colchicum; conium; nux vomica; henbane; savin; ergot; cotton root; cantharides; creosote; digitalis and their pharmaceutical preparations; croton oil; chloroform; chloral hydrate; sulphate of zinc; mineral acids; carbolic acid and oxalic acid.

A poison in the meaning of this act shall be any drug, chemical or preparation which, according to standard works on medicine or *materia medica*, is liable to be destructive to adult human life in quantities of sixty grains or less. No person shall sell at retail any poisons mentioned in schedules "A" and "B" above mentioned without affixing to the bottle, box, vessel or package containing them, the name of the contents, the word "poison," and the name and place of business of the seller, nor shall he deliver said poison to any person without satisfying himself that such poison is to be used for legitimate purposes; *Provided*, That nothing herein contained shall apply to the dispensing of physician's prescriptions specifying poison. It shall also be the duty of such vendor of poisons before delivering the same to the purchaser, to cause an entry to be made in a book kept for that purpose, stating the date of sale, the name and address of the purchaser, the name and quality of the poison sold, and the name of the dispenser, such book to be always kept open for inspection by the proper authorities, and to be preserved for at least five years. Any person failing to comply with the requirements of this section shall be deemed guilty of a misdemeanor and shall, upon conviction, be liable to a fine of not less than five (5) dollars for each and every such omission.

§ 15. PROSECUTIONS FOR VIOLATIONS OF THIS ACT.] All suits for recovery of the several penalties and costs prescribed in this act shall be prosecuted in the name of the State of North Dakota in any court having jurisdiction, and it shall be the duty of the state's attorney of the county wherein such offense is committed to prosecute all persons violating the provisions of this act upon proper complaint being made. All penalties collected under the provisions of this act shall inure to the Board of Pharmacy, for the expenses and costs of the proper execution of the law.

§ 16. ACTS REPEALED—FORFEITED MEMBERSHIP, HOW RENEWED.] All acts or parts of acts regulating the practice of pharmacy or adulterations of drugs, within this State, enacted prior to the passage of this act, which in any wise conflict with the provisions of this act are hereby repealed; *Provided*, That nothing in this act shall be so construed as to prevent any person who has once been a member by examination, and may have forfeited his membership

by non-payment of fines or fees, from renewing his registration within two years, by paying the required dues or fees, without examination.

§ 17. EMERGENCY.] Whereas, the existing laws do not provide any punishment for the violation of the provisions of the law now governing the practice of pharmacy, nor is there any schedule of poisons specified therein, thereby not only exposing the public to the danger arising from the acts of incompetent persons, but there is an existing confusion as to what drug, chemical or preparation is termed a poison and dangerous to life, hence an emergency exists; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 20, 1890.

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## PRESIDENTIAL ELECTORS.

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### CHAPTER 109.

[H. F. 192.]

RELATING TO ELECTORS OF PRESIDENT AND VICE PRESIDENT.

AN ACT Relating to Electors of President and Vice President.

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

§ 1. WHEN ELECTORS CONVENE—VACANCIES, HOW FILLED.] The electors of President and Vice President shall convene at the capital of this State on the second Monday in January next after their election at the hour of 12 o'clock, noon, of that day, and if there shall be any vacancy in the office of an elector, occasioned by the death, refusal to act, neglect to attend or other cause, the electors present shall immediately proceed to fill by ballot, and by plurality of votes, such vacancy in the electoral college, and when all the electors shall appear, or the vacancies shall have been filled as above provided, they shall proceed to perform the duties required of such elector by the Constitution and laws of the United States.

Approved March 6, 1890.



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# PROHIBITION.

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## CHAPTER 110.

[H. F. 6.]

### PREScribing PENALTIES FOR UNLAWFUL DEALING IN SPIRITUOUS LIQUORS.

AN ACT to Prescribe Penalties for the Unlawful Manufacture, Sale and Keeping for Sale Intoxicating Liquors, and to Regulate the Sale, Barter and Giving Away of Such Liquors for Medical, Scientific and Mechanical Purposes.

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

§ 1. PENALTY FOR MANUFACTURE OR SALE—WHO MAY LAWFULLY SELL.] Any person, association or corporation, who shall, within this State, directly or indirectly, manufacture any spirituous, malt, vinous, fermented or other intoxicating liquor, or shall import any of the same for sale, or gift as a beverage, or shall keep for sale, or sell, or offer for sale or gift, barter or trade, any of such intoxicating liquors, as a beverage, shall for the first offense be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not less than two hundred (200) dollars nor more than \$1,000, and be imprisoned in the county jail not less than ninety days nor more than one year; and for the second and every successive offense, shall be deemed guilty of a felony, and be punished by imprisonment in the State's prison for a period not exceeding two years and not less than one year; *Provided*, That registered pharmacists under the laws of this State may sell intoxicating liquors for medicinal, mechanical, scientific, and wine for sacramental purposes as hereinafter provided.

§ 2. DRUGGISTS' PERMIT, HOW OBTAINED—APPLICATION TO BE PUBLISHED—BOND APPROVED BY COUNTY JUDGE—APPEAL, HOW TAKEN.] It shall be unlawful for any person or persons to sell or barter, for medicinal, scientific or mechanical purposes, any malt, vinous, spirituous, fermented or other intoxicating liquors, without first having procured a druggist's permit therefor from the county judge of the county wherein such druggist may be doing business at the time; and such county judge is hereby authorized, in his discretion, to grant a druggist permit for the period of one year, to any person of good moral character who is a registered pharmacist under the laws of this State, and lawfully and in good

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faith engaged in the business of a druggist in his county, and who in his judgment can be entrusted with the responsibility of selling such liquors for the purposes aforesaid in the manner hereinafter provided. In order to obtain a druggist permit under this act, the applicant shall file in the office of the county judge of the county wherein he is doing business, not less than thirty days prior to the hearing thereof, a petition signed by the applicant and twenty-five reputable freeholders having the qualifications of electors of the town, village, township or ward of any city, and twenty-five reputable women over twenty-one years of age who are residents of the town, village, township, or city, wherein such business is located, setting forth: first, the town, village, city or township and particular place therein where such business is located, and that the applicant is [a] person of good moral character, and does not use intoxicating liquor as a beverage, and can be entrusted with the responsibility of selling the same; second, that said applicant is a pharmacist as aforesaid, and is lawfully and in good faith engaged personally in the business of a druggist as the proprietor thereof at the place designated in the petition, and well versed in the profession; third, that said applicant has, in his said business, exclusive of intoxicating liquors and fixtures, a stock of drugs, if in any city, of the value of at least \$1,000, and if elsewhere, of the value of at least five hundred (500) dollars. Before any such petition shall be heard, or any permit issued to such applicant, he shall publish, for at least thirty days next prior thereto, a notice in some newspaper in the town, village, township or city where such business is located, or if none be published therein, then in some paper of general circulation in the county, stating the time and place set by such judge for the hearing of such petition. The applicant shall be required to prove the truthfulness of each and every statement contained in such petition, and the state's attorney of such county shall, and any other citizens of the county may appear and cross-examine the witnesses of the applicant, and may introduce evidence in rebuttal of the evidence offered by the applicant. If satisfied that the signatures to such petition were signed by such persons, and that such petitioners are free-holders or citizens of such town, village, township, city or ward, as above expressed, and that the statements in such petition are true, the county judge may in his discretion, grant a permit to the applicant to sell intoxicating liquors for medical, mechanical and scientific purposes only; and such permit shall be recorded upon the journal of the county court, and a certified copy thereof shall be posted in a conspicuous place in the store wherein said business is carried on before it shall be of any validity. Before such permit shall be of any validity, such druggist shall file with the county judge, to be approved by him, a good and sufficient bond to the State of North Dakota in the sum of \$1,000, conditioned that such applicant and any one in his employ will neither use, sell barter or give away any intoxicat-

ing liquor in violation of law, and on violation of the provisions of said bond the same shall thereby become forfeited; and the conviction of said pharmacist or any one in his employ shall be deemed *prima facie* evidence of such violation. Any applicant or any citizen feeling himself aggrieved by the decisions of the county judge, may, within ten days thereafter, upon filing a bond made payable to the State of North Dakota, in the sum of fifty (50) dollars, to be approved by the county judge, conditioned that he will prosecute the same to a speedy determination, and pay the costs occasioned by such appeal if the order of the county judge shall be sustained, prosecute the cause upon appeal to the district court. The procedure in any case taken on appeal to the district court from the order of the county judge shall be as prescribed by Article 2 of Chapter 12 of the Probate Code of the Compiled Laws of Dakota of 1887, so far as applicable, and a case or bill of exceptions may be made, signed and certified by the county judge. If the district court shall find that the county judge has abused his discretion, it shall have power to cause the county judge to comply with its judgment, otherwise the order of the county judge shall be by the district court affirmed. No appeal shall be allowed from the order of the district court. If the order of the county judge shall be reversed, the costs shall be paid by the county. If at any time there shall be filed with the county judge a petition stating that any druggist, naming him, who has a permit to sell intoxicating liquors, is not in good faith conforming to the provisions of this act, verified by the affidavit of at least one of the petitioners hereinafter named, and signed by twenty-five reputable men and twenty-five reputable women, all of whom reside in the town, village, township, city or ward in which the business of said druggist is carried on, requesting that the permit of such druggist be cancelled, the county judge shall immediately issue an order citing such druggist to appear before him on a day named, not more than ten days from the issuing of such order, at which time the question of the cancellation of such permit shall be considered. Such examination shall be conducted in the same manner in all respects as is herein provided for the hearing of the original petition for granting such permit, and such county judge shall, if there are reasonable grounds for believing such druggist is not in good faith carrying out all the provisions of this act, cancel such permit. An appeal may be had from the decision of such county judge to the district court as herein provided for appeals from the application for a permit; *Provided*, The permit of such druggist shall be inoperative till such appeal is finally decided. If any county judge shall issue a permit to any person not registered as a pharmacist, or shall knowingly grant the same to a person in the habit of becoming intoxicated, or not in good faith engaged in the business of a druggist as proprietor thereof, he shall be deemed

guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than five hundred (500) dollars nor more than \$1,000; and if any person shall sign the petition, as provided herein, of any applicant known by such person to be in the habit of becoming intoxicated, or not in good faith engaged in the business of a druggist, he shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than fifty (50) dollars nor more than one hundred (100) dollars. Before the petition of a druggist for a permit to sell intoxicating liquors shall be heard by the county judge the applicant shall pay a fee of five (5) dollars to the county judge, who shall pay the same into the county treasury on or before the first day of the following month for the benefit of the general revenue fund.

§ 3. PHYSICIANS MAY PRESCRIBE UNDER CERTAIN CONDITIONS.] Any physician who is lawfully and regularly engaged in the practice of his profession as a business, and who, in case of actual need, shall deem any intoxicating liquors necessary for the health of his patients, may give such patient a written or printed prescription therefor, stating in said prescription the particular disease for which it is given, or may administer the same himself; but no such prescription shall be given, or liquors administered, except in cases of actual need, and where, in his judgment, the use of intoxicating liquors is necessary. And every physician who shall give such prescription or administer such liquors in violation of this act, and every physician who shall give to or write for any person a prescription for intoxicating liquors for the purpose of enabling or assisting any person to evade any of the provisions of this act, or for the purpose of enabling or assisting any person to obtain any intoxicating liquors for use as a beverage, or to be sold or disposed of in any manner, in violation of the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than three hundred (300) dollars, nor more than eight hundred (800) dollars, and by imprisonment in the county jail not less than thirty days nor more than six months.

§ 4. DRUGGIST'S SALE, HOW REGULATED—AFFIDAVITS REQUIRED—PHARMACISTS MAY ADMINISTER OATHS—COUNTY AUDITOR TO FURNISH AFFIDAVIT BLANKS—RECORD OF SALES—PENALTY.] Any druggist having a permit to sell intoxicating liquors under the provisions of this act, may sell the same only by himself in person, or by clerk who is a registered pharmacist or assistant pharmacist under the laws of this State, for medical purposes only, upon the printed or written affidavit of the applicant, setting forth the particular medical purposes for which such liquor is required, the kind and quality [quantity] desired; that it is necessary and actually needed for the particular purpose, by the patient to be named; and that it is not intended for a beverage, nor to sell or give away, that the applicant is over twenty-one years of age; which affidavits

shall be in the following form and subscribed by the applicant, in ink:

No.....

Date,.....

STATE OF NORTH DAKOTA, }  
COUNTY OF....., } ss.

I, the undersigned, do solemnly swear that my real name is ..... that I reside at.....county, state of....., that.....of..... is necessary and actually needed by....., to be used as a medicine for the disease of.....; that it is not intended as a beverage, nor to sell nor to give away, and that I am over twenty-one years of age. I therefore make application to....., druggist, for said liquor.

.....Applicant.

Subscribed in my presence and sworn to before me this..... day of.....

.....Pharmacist.

And such druggist may sell intoxicating liquors for mechanical, scientific and wine for sacramental purposes only upon the written or printed affidavit of the applicant, setting forth the particular purpose for which such liquor is required, the kind and quantity desired, that it is not intended to be used as a beverage, nor to sell nor to give away, and that it is intended only for his own use, and that the applicant is over twenty-one years of age. Such affidavit shall be in the following form, and subscribed by the applicant in ink:

No.....

Date.....

STATE OF NORTH DAKOTA, }  
COUNTY OF..... } ss.

I, the undersigned, do solemnly swear that my real name is ..... that I reside at....., .....county, state of....., that.....of.....is required by myself to be used for..... purposes, to be used for....., that it is not intended for a beverage, nor to sell, nor to give away, and that I am over twenty-one years of age. I therefore make application to....., druggist, for said liquor.

.....Applicant.

Subscribed in my presence, and sworn to before me this..... day of....., 18....

.....Pharmacist.

And there shall be but one sale and one delivery on any one affidavit, but no druggist shall permit the drinking on his premises, nor in any apartment connected therewith, and under his control, any of the intoxicating liquors purchased by affidavit or otherwise; *Provided*, Such druggist shall be permitted to sell any

of the liquors mentioned herein, in quantities not less than one gallon, to any other druggist within the State holding a permit as provided in this act. The affidavits provided for in this section shall be made before the pharmacist or assistant pharmacist making sale of such liquors upon proper printed blanks, which it is hereby made the duty of the county auditor of the county in which such sales are made to furnish to such druggist at a cost equal to the actual and necessary outlay made therefor by him. Such blanks shall be in series of 100 each, numbered from 1 to 100 consecutively, and bound in book form, each series being of uniform style throughout, except that no two blanks of the same series shall be of the same number. It shall be the duty of the county auditor to endorse each such book with the date of delivery and to whom made, to sign such indorsement and attest to the same with his official seal, and to keep two exact printed copies, except as to numbers, of the blanks of each series, one of which shall be filed in his office and one in the office of the county judge; he shall also keep a record of the series, and of the number of each series, of such blanks furnished to each druggist, and shall, within ten days after the same are delivered to such druggist, file a copy thereof, together with a copy of the blank affidavits, in the office of the county judge of his county. For such services the county auditor shall be entitled to a fee of twenty-five (25) cents for each series of blanks so furnished to be paid by the druggist obtaining such blanks. All pharmacists and assistant pharmacists are hereby empowered to administer oaths for the purposes of this act, and no such affidavit shall be received by any pharmacist or assistant pharmacist until it shows on its face that it has been properly subscribed and sworn to by the applicant. The affidavits provided for in this section shall be retained by the druggist in the original book form, and on or before the first day of each month shall, together with the affidavit of such druggist that the liquors therein mentioned are all the intoxicating liquors sold by him during the month, except the liquors sold to other druggists, be filed in the office of the county judge who issued his permit, where they shall be safely kept for the period of two years from the date of filing. Before said affidavits shall be received or filed by said county judge, he shall make strict examination of the copies of affidavits and record of numbers thereof furnished him by the county auditor, and ascertain whether such druggist has returned all affidavits furnished him in blank by the county auditor; and if any such affidavit or blank is missing, said county judge shall require such druggist to file instead thereof his affidavit showing as near as he can what has become of such affidavit or blank. And any person having a permit to sell intoxicating liquors under the provisions of this act shall each month, at the time he files the affidavit herein provided for, also file with the county judge an affidavit setting forth the amounts and kinds of liquors, as nearly as can be done, which such person or firm of

which he is a member has on hand on the day such affidavit is made, as well as the amounts and kinds of liquors he has purchased or procured during the preceding month and the name or names of the persons, companies or corporations and their place of doing business, from whom, and the dates on which such liquors were purchased or procured. For each series of affidavits filed under the provisions of this act, the county judge shall collect one dollar and fifty cents (\$1.50) from the druggist filing the same, or the proportionate part thereof for the number filed, which shall be paid by him on the first day of each month into the county treasury for the benefit of the general county fund. The county judge shall receive no fees for his services under this act, except a salary of fifteen (15) dollars per annum for each 1,000 inhabitants in such county, the number to be determined by the last census return of such county, but in no case shall such salary exceed in the aggregate the sum of \$1,000 per annum, to be paid by the county commissioners as other salaries. Every person, whose affidavit so made for the purpose of obtaining intoxicating liquors shall be false in any material matter, shall be deemed guilty of perjury, and shall be punished by confinement and hard labor in the State Prison for a period not exceeding two years, or by confinement in the county jail not less than six months. Any person who shall subscribe any name or character other than his own name to any affidavit for the purpose of obtaining intoxicating liquors as provided herein, shall be deemed guilty of forgery in the fourth degree, and punished therefor by imprisonment in the State Prison not exceeding two years and not less than one year. Any person who shall sell or furnish any intoxicating liquors so obtained by him upon affidavit or certificate, to others as a beverage, or shall use the same as a beverage, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one hundred (100) dollars nor more than five hundred (500) dollars, and by imprisonment in the county jail not less than thirty days nor more than ninety days. Every such druggist shall keep a book wherein shall be recorded, daily, all sales of intoxicating liquors made by him or his employes, showing the name and residence of the purchaser, the kind and quantity of the liquors sold, the purpose for which it was sold, and the date of the sale. Such record and affidavit shall be open for the inspection of the public at all reasonable times during business hours, and any person so desiring may take memoranda or copies thereof.

§ 5. PENALTY FOR MAKING FALSE AFFIDAVIT OR VIOLATION OF PROVISIONS OF THIS ACT.] Any druggist or pharmacist, or assistant pharmacist in his employ, who shall fail or neglect to make and keep a record as herein provided of any intoxicating liquors by him sold before the same are delivered, or shall refuse any person an examination of such records or the taking of memoranda or copy therefrom at any time during business hours; or who shall

sell, barter or give away any such liquors at any place not designated in his permit, or upon any affidavit other than those herein provided; or shall make any false affidavit as to any sales made by him or his employes, or shall fail to sign the certificate to the signature of any applicant for such liquor prior to the delivery thereof, or shall sign any false certificate to any such affidavit, or shall mutilate or remove any affidavits from the book to him issued as aforesaid; or shall fail to return the same as hereinbefore provided; or shall sell any intoxicating liquor to any person whom he has reason to believe desires the same to use as a beverage, or sell liquor when he has reason to believe the liquor sold is not a remedy for the ailment described in the affidavit therefor; or shall sell, barter or give away any intoxicating liquors to any minor, any person under the influence of liquor, or who is in the habit of becoming intoxicated, or who shall allow such liquor sold as a medicine or otherwise, to be drunk on his premises, or premises under his control; or in any other manner omit any act required of him herein, or violate any of the provisions of this act, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than two hundred (200) dollars nor more than \$1,000, and be imprisoned in the county jail not less than ninety days nor more than one year, and shall forfeit his permit issued under the provisions of this act, and his right to obtain a permit within five years next thereafter; and in all cases when forfeitures are provided under the provisions of this act, the court shall declare the same on rendering judgment in the action.

§ 6. INTOXICATING LIQUORS DEFINED.] All spirituous, malt, vinous, fermented or other intoxicating liquors or mixtures thereof, by whatever name called, that will produce intoxication, shall be considered and held to be intoxicating liquors within the meaning of this act.

§ 7. LIFE OF LIQUOR PERMIT.] A permit to sell intoxicating liquor under this act shall continue in force for one year from the date thereof, unless sooner forfeited under the provisions of this act.

§ 8. DUTY OF ALL PEACE OFFICERS TO APPREHEND AND NOTIFY.] It shall be the duty of the sheriffs, deputy sheriffs, constables, mayors, marshals, police judges and police officers of any city or town having notice or knowledge of any violations of the provisions of this act, to notify the state's attorney of the fact of such violation and to furnish him the names of any witnesses within his knowledge by whom such violation can be proven. If any such officer shall fail to comply with the provisions of this section, he shall upon conviction be fined in any sum not less than one hundred (100) dollars nor more than five hundred (500) dollars; and such conviction shall be a forfeiture of the office held by such person; and the court before whom such conviction is had shall, in addition to the imposition of the fine aforesaid, order and adjudge the forfeiture of his said office. For a failure



or neglect of official duty in the enforcement of this act, any of the city or county officers herein referred to may be removed by civil action.

§ 9. DUTY OF STATE'S ATTORNEY—SEIZURES AND ARRESTS—POWERS OF JUSTICES OF THE PEACE.] If the state's attorney of any county shall be notified by any officer or other person, or be cognizant himself of any violation of any of the provisions of this act, it shall be his duty forthwith to diligently inquire into the facts of such violation and for such purpose he is hereby authorized and required to issue his subpoena for such person or persons as he may have reason to believe have any information or knowledge of such violation, to appear before him at a time and place designated in such subpoena, then and there to testify concerning any violation of this act; said subpoena shall be directed to the sheriff or any constable of the county, and shall be served and returned to such state's attorney in the same manner as subpoenas are served and returned in criminal cases. Each witness shall be sworn by the state's attorney to testify the truth, the whole truth, and nothing but the truth, and true answer make to all questions which may be propounded to him by such state's attorney touching any violation of the provisions of this act. The testimony of every such witness shall be reduced to writing and signed by such witness, as in the taking of depositions in civil cases. For all purposes in this section the state's attorney is hereby authorized and empowered to administer oaths or affirmation to all witnesses, and shall have power to punish any witness for contempt for or on account of any disobedience of a subpoena, a refusal to be sworn or answer as a witness, or to sign his testimony, and may compel the attendance of witnesses by attachment in the same manner and with like effect as provided in the Code of Civil Procedure. If the testimony so taken shall disclose the fact that an offense has been committed against any of the provisions of this act, the state's attorney shall forthwith file such statement, together with his information against the person having committed the offense, in some court of competent jurisdiction, and such statement or testimony, together with the information of such state's attorney when verified by him on information and belief, shall have the same effect as if such information had been verified positively. And thereupon a warrant shall issue for the arrest of the person or persons named in such information, as in other criminal cases, and in addition thereto, shall command the officer to whom it may be directed to seize and take into his custody any and all intoxicating liquors, vessels and bottles containing the same, which he may find in such person's possession, and safely keep the same, subject to the order of the court; *Provided*, The sworn statement of the witness or witnesses, as hereinbefore provided, and the information filed by the state's attorney shall particularly describe the property to be seized and the place where kept; and if upon

the trial of such person he shall be convicted of violation of any of the provisions of this act, the court shall order as a part of his judgment, in addition to the penalty herein provided, that the officer having the custody thereof shall publicly destroy all such property used and employed for such illegal purpose; *Provided*, The court shall find and adjudge the property so seized was being used and employed by the defendant for such illegal purposes; *Provided, further*, That where the state's attorney has been notified in writing under oath, giving the name of the person violating the law, the place where the unlawful business is carried on and the names of the witness or witnesses, by whom the affiant believes that the facts can be proven and the state's attorney shall fail, neglect or refuse to make an investigation, then the affiant may make affidavit before some justice of the peace of the township, city or county wherein the crime has been committed, giving the name of the violator of the law, the location of the place and the names of the witnesses, by whom he believes the offense can be proven, and it shall be the duty of such justice of the peace, and he is hereby empowered with authority to issue his subpoena for the witnesses named or any other witnesses, whose names shall be made known by the first witnesses subpoenaed. Such subpoena shall be directed to any sheriff or constable of the county, or marshal or policeman of any city or town in the county, for service and return according to law. Such justice of the peace shall have power to fine for contempt and may compel the attendance of witnesses by attachment, and shall have all the powers for securing and taking the testimony of witnesses heretofore in this section given to the state's attorney. When the evidence is taken by the justice of the peace and reduced to writing, if it should show that a crime had been committed, it shall be certified to the state's attorney by the justice of the peace taking the same, and it shall be the duty of the state's attorney, on the receipt of such evidence to forthwith file his information in the same manner as if the evidence had been taken by himself.

§ 10. INFORMATION TO BE FILED IN CERTAIN CASES—TRIAL—PENALTY IN CASE OF GUILT.] If the statement of any witness so taken before the state's attorney or a justice of the peace, as in the last preceding section provided, shall disclose the fact that intoxicating liquors are being kept for unlawful sale or purpose, or are being sold by an unknown person or persons, particularly describing such unknown person or persons, contrary to the provisions of this act, at any place, particularly describing the place to be searched and the property to be seized, as hereinafter provided, within such county, it shall be the duty of such state's attorney to forthwith file his information, together with such statements, with some magistrate of the county having jurisdiction, against such place and the unknown keepers thereof, which information, when verified by such state's attorney upon information and belief,

together with such statements as aforesaid, shall have the same effect as if such information had been sworn to positively; and thereupon a warrant shall issue, directed to the proper officer, commanding him to search the premises described in the information and to seize all intoxicating liquors and all vessels and bottles containing the same, and arrest the keeper or keepers thereof, and said person or persons so arrested shall be examined and tried in the manner prescribed by law for the examination and trial of persons charged with an indictable offense, and if upon trial are found guilty shall be fined for the first offense not less than two hundred (200) dollars nor more than \$1,000, and be imprisoned in the county jail not less than ninety days nor more than one year; and for the second and every successive offense be punished by imprisonment in the State's prison for a period not exceeding two years, and not less than one, and the court before whom such conviction may be had shall also order all the property seized by the officer as aforesaid to be publicly destroyed; *Provided*, Said court shall also find and adjudge such property was being used by the defendant at the time of such search and seizure for the purpose of unlawfully selling or bartering intoxicating liquors.

§ 11. FEES.] Officers shall receive the same fees and mileage for serving subpoenas issued by the state's attorney and justices of the peace under the provisions of this act as provided in criminal cases, and witnesses shall receive the same fees for attendance as provided for witnesses in cases before the justices of the peace. Such fees shall be certified to the board of county commissioners by the state's attorney or justice of the peace, and paid by the county as witness fees for attendance before a grand jury. All witnesses shall attend upon the state's attorney or justice of the peace in pursuance to his subpoena, without the payment of any fees in advance. For every conviction under this act there shall be allowed an attorney's fee of ten (10) dollars upon each count upon which the defendant shall be convicted, and the same shall be taxed as costs in the case to be paid into the county treasury as hereinafter provided. If any prosecution begun by the state's attorney, the Attorney General or his assistants; or by a citizen, with the written consent or approval of the state's attorney or Attorney General, under the provisions of this act, shall fail, the costs of such prosecution, unless otherwise specified herein, shall be paid by the county in which such prosecution or action was begun.

§ 12. STATE'S ATTORNEY TO PROSECUTE—COUNTY TREASURER TO PLACE FINES IN SPECIAL FUND—WHEN ATTORNEY GENERAL MAY PROSECUTE.] It shall be the duty of the state's attorney to diligently prosecute any and all persons violating any of the provisions of this act, in their respective counties, and to bring suit upon all bonds or recognizances forfeited, immediately after the happening of such forfeitures, to recover the penalty, and to pay all money so collected, as herein provided, into the treasury of said county, and

take the receipt of the treasurer therefor; it shall be the duty of said treasurer to credit said money temporarily, to a special fund, to be designated as the liquor prosecution fund, to be disposed of as here[in]after provided. Said state's attorney is hereby empowered to draw his warrants, in each case separately, upon such fund to pay the expenses actually and necessarily incurred by him in securing testimony for and in enforcing the provisions of this act; *Provided, however,* That no treasurer shall pay any of said warrants so drawn by the state's attorney as aforesaid, until he files with such treasurer an itemized statement of such expenses in each and every case, duly verified by himself to the effect that the same were actually and necessarily incurred to promote the ends above expressed, and that the same have not been paid. Said treasurer shall, by proper entries upon his books, specifically designate the action in which such money is received and paid out, and any balance remaining in each action, after the payment of the necessary expenses hereinbefore specified, shall be by such treasurer passed to the credit of the common school fund. If any state's attorney shall fail, neglect or refuse to faithfully perform any duty imposed upon by him by this act, he 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 five hundred (500) dollars and be imprisoned in the county jail not less than thirty days nor more than ninety days; and such conviction shall operate as a forfeiture of his office, and the court before whom such conviction may be had shall order and adjudge such forfeiture of office in addition to the fine imposed as herein provided. And whenever the state's attorney shall be unable, or shall neglect or refuse to enforce the provisions of this act in his county, or for any reason whatever the provisions of this act shall not be enforced in any county, it shall be the duty of the Attorney General to enforce the same in such county, and for that purpose he may appoint as many assistants as he shall see fit, and he and his assistants shall be authorized to sign, verify and file all such complaints, informations, petitions and papers as the state's attorney is authorized to sign, verify or file, and to do and to perform any act that the state's attorney might lawfully do or perform; and for such services he or his assistant shall receive a fee of ten (10) dollars upon each count upon which the defendant shall be convicted, to be taxed and collected in the same manner, except that in all cases where there shall be a conviction, and the attorney's fees as provided for in this act shall not be paid by the defendant within one month after his release from jail, the county where such conviction is had shall then become liable to the Attorney General or his assistant prosecuting such case for a fee of ten (10) dollars upon each count upon which the defendant shall have been convicted.

§ 13. NUISANCE ABATED, HOW—WHEN STOCKS OF LIQUOR TO BE DESTROYED—CONVICTION OF OWNER OR KEEPER—PENALTY—PRE-

SUMPTIVE EVIDENCE OF UNLAWFUL SALE—PROCESS.] All places where intoxicating liquors are sold, bartered or given away, in violation of any of the provisions of this act, or where persons are permitted to resort for the purpose of drinking intoxicating liquors as a beverage, or where intoxicating liquors are kept for sale, barter or delivery in violation of this act, are hereby declared to be common nuisances; and if the existence of such nuisance be established, either in a criminal or equitable action, upon the judgment of a court or judge having jurisdiction, finding such place to be a nuisance, the sheriff, his deputy or under sheriff, or any constable of the proper county or marshal of any city where the same is located, shall be directed to shut up and abate such place, by taking possession thereof, if he has not already done so under the provision of this act and by taking possession of all such intoxicating liquors found therein together with all signs, screens, bars, bottles, glasses and other property used in keeping and maintaining such nuisance, and such personal property so taken possession of shall, after judgment, be forthwith publicly destroyed by such officer, and the owner or keeper thereof shall, upon conviction be adjudged guilty of maintaining a common nuisance, and shall for the first offense be punished by a fine of not less than two hundred (200) dollars, nor more than \$1,000 and by imprisonment in the county jail of not less than ninety days nor more than one year, and for the second and every successive offense be punished by imprisonment in the State's Prison for a period not exceeding two years and not less than one; and said officer abating such nuisance shall securely close said building, erection or place where such nuisance was located, as against the use or occupation of the same for saloon purposes, and keep the same securely closed for the period of one year (unless sooner released as hereinafter provided), and any person breaking open said building, erection or place, or using the premises so ordered to be closed, shall be punished for contempt, as hereinafter provided, in case of violation of injunctions; *Provided, however,* That when lease-hold premises are adjudged to be a nuisance, the owner thereof shall have the right to terminate the lease by giving three days' notice thereof, in writing, to the tenant, and when this is done the premises shall be turned over to the owner upon the order of the court or judge. But the release of the property shall be upon condition that the nuisance shall not be continued, and the return of the property shall not release any lien upon said property occasioned by any prosecution of the tenant. If the owner appear and pay all costs of the proceedings and file a bond with sureties to be approved by the clerk in the full value of the property to be ascertained by the court or judge, conditioned that he will immediately abate said nuisance and prevent the same from being established or kept therein within the period of one year thereafter, the court, or in vacation the judge may, if satisfied of his good faith, order the premises taken and closed under the order of abatement to be deliv-

ered to said owner, and said order of abatement cancelled so far as the same may relate to said property, and if the proceeding be an action in equity and bond be given and costs therein paid before judgment and order of abatement, the action shall be thereby abated; *Provided, however,* That the release of the property under the provisions of this section shall not release it from any judgment, lien or penalty, or liability to which it may be subject under any other statute or law. The Attorney General, his assistant, state's attorney, or any citizen of the county where such nuisance exists, or is kept, or is maintained, may maintain an action in the name of the State to abate and perpetually enjoin the same. The injunction shall be granted at the commencement of the action in the usual manner of granting injunctions, except that the affidavit or complaint, or both, may be made by the state's attorney, Attorney General or his assistant upon information and belief; and no bond shall be required; and if an affidavit shall be presented to the court or judge, stating or showing that intoxicating liquor, particularly describing the same, is kept for sale, or is sold, bartered, or given away on the premises, particularly describing the same, where said nuisance is located contrary to law, the court or judge must at the same time of granting the injunction issue his warrant commanding the officer serving said writ of injunction, at the time of such service to diligently search the premises and carefully invoice all the articles found therein, used in or about the carrying on of the unlawful business; for which search and invoicing said officer shall receive the sum of ten (10) dollars in addition to the fees now allowed by law for serving an injunction. If such officer upon such search shall find upon such premises any intoxicating liquor or liquors of any kind, he shall take the same into his custody and securely hold the same to abide the final judgment in the action (the expenses for such holding to be taxed as part of the costs in the action); and such officer shall also take and hold possession of all personal property found on such premises, and shall take and hold possession of such premises and keep the same closed until such final judgment. The finding of such intoxicating liquor or liquors on such premises shall be *prima facie* evidence of the existence of the nuisance complained of. Any person violating the terms of any injunction granted in such proceedings shall be punished for contempt, for the first offense by a fine of not less than two hundred (200) dollars nor more than \$1,000, and by imprisonment in the county jail not less than ninety days nor more than one year, and for the second and every successive offense of contempt be punished by imprisonment in the State's Prison for a period not exceeding two years and not less than one in the discretion of the court or judge thereof. In case judgment is rendered in favor of the plaintiff in any action, brought under the provisions of this section, the court or judge rendering the same shall also render judgment for a reasonable attorney's fee in such action in favor

of the plaintiff and against the defendants therein; which attorney's fee shall be taxed and collected as other costs therein, and when collected paid to the attorney or attorneys of the plaintiff therein; *Provided*, If such attorney be the state's attorney such attorney's fee shall be paid into the county treasury as in Section 12 of this act provided. In contempt proceedings arising out of the violation of any injunction granted under the provisions of this act the court, or in vacation the judge thereof, shall have the power to try summarily and punish the party or parties guilty as required by law. Processes shall run in the name of the State of North Dakota. The affidavits upon which the attachment for contempt issues, shall make a *prima facie* case for the State. The accused may plead in the same manner as to an indictment, in so far as the same is applicable. Evidence may be oral or in the form of affidavits, or both; the defendant may be required to make answer to interrogatories, either written or oral, as in the discretion of the court or judge may seem proper; the defendant shall not necessarily be discharged upon his denial of the facts stated in the moving papers; the clerk of the court shall, upon the application of either party, issue subpoenas for witnesses, and, except as above set forth, the practice in such contempt proceedings shall conform as nearly as may be to that adopted by the ninetieth rule of the Supreme Court of the United States for proceedings in equity in the circuit courts.

§ 14. LIABILITY FOR CAUSING INTOXICATION.] Every person who shall by the sale, barter or gift of intoxicating liquors cause the intoxication of any other person or persons shall be liable for and compelled to pay a reasonable compensation to any person who may take charge of and provide for such intoxicated person, and five (5) dollars a day in addition thereto for every day such intoxicated person shall be kept in consequence of such intoxication, to be recovered by civil action in any court having jurisdiction.

§ 15. RIGHT OF ACTION OF INJURED PARTIES.] Every wife, child, parent, guardian or employer or other person who shall be injured in person or property, or means of support, by any intoxicated person, or in consequence of intoxication, habitual or otherwise, of any person, such wife, child, parent or guardian, or employer shall have a right of action, in his or her own name, against any person who shall by selling, bartering or giving away intoxicating liquors, have caused the intoxication of such person, for all damages actually sustained, as well as for exemplary damages; and a married woman shall have the right to bring suits, prosecute and control the same, and the amount recovered, the same as if unmarried; and all damages recovered by a minor under this act shall be paid either to such minor, or his or her parent, guardian, or next friend, as the court shall direct; and all suits for damages under this act shall be by civil action in any of the courts of this State having jurisdiction thereof.

§ 16. CLUB HOUSES PROHIBITED—PENALTY.] Every person who shall, directly or indirectly, keep or maintain, by himself or by associating or combining with others, or who shall in any manner aid, assist or abet, in keeping or maintaining any club room, or other place in which any intoxicating liquor is received or kept for the purpose of use, gift, barter or sale as a beverage, or for distribution or division among the members of any club or association by any means whatever; and every person who shall use, barter, sell or give away, or assist or abet another in bartering, selling or giving away, any intoxicating liquors so received or kept, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall for the first offense be punished by a fine of not less than three hundred (300) dollars nor more than \$1,000, and by imprisonment in the county jail not less than ninety days nor more than one year, and for every successive offense be punished by imprisonment in the State's prison for a period not to exceed two years and not less than one.

§ 17. UNLAWFUL EVASION.] The giving away of intoxicating liquor or any shifts or device to evade the provisions of this act, shall be deemed an unlawful selling within the provisions of this act.

§ 18. FINES AND COSTS TO CONSTITUTE LIEN—PROVISO.] All fines and costs assessed against any person or persons for any violation of this act shall be a lien upon the real estate of such person or persons until paid; and in case any person or persons shall let or lease any building or premises, or shall permit the same to be used and occupied for the sale of intoxicating liquor, contrary to the provisions of this act, the premises so leased and occupied shall be subject to a lien for and may be sold to pay all fines and costs assessed against any such occupant for any violation of this act; and such lien may be enforced by civil action in any court having jurisdiction; *Provided*, That the person against whom such fines and costs are assessed shall be committed to the county jail until such fines and costs are paid; *Provided*, That no imprisonment for non-payment of fines and costs shall exceed the period of six months,

§ 19. INFORMER PROTECTED.] Whenever application is made to the county judge for a permit to sell intoxicating liquors under the provisions of this act, he shall notify the state's attorney thereof, and thereupon such state's attorney shall appear and advise with said county judge, with reference to the issuing of said permit, and the approval of the bond. No person who shall inform of offenses under this act, or make complaint thereof, shall be liable for the costs incurred in such prosecution, unless the court or jury trying the case shall find and determine that such prosecution was malicious and without probable cause.

§ 20. ASSISTANCE TO STATE'S ATTORNEY.] Any citizen may employ an attorney to assist the state's attorney to perform his



duties under this act, and such attorney shall be recognized by the state's attorney and the court as associate counsel in the proceedings, and no prosecution shall be dismissed over the objections of such associate counsel until the reasons of the state's attorney for such dismissal, together with the objections thereto of such associate counsel, shall have been filed in writing, argued by counsel, and fully considered by the court.

§ 21. SPEEDY JUDGMENT TO BE RENDERED.] The court whose duty it shall be to render judgment in any action or proceeding growing out of a violation of the provisions of this act, shall immediately upon the conviction of the defendant render judgment; *Provided*, That for prudential reasons and for the ordinary purposes of perfecting an appeal judgment and sentence may be suspended for a period not exceeding thirty days, and then only upon the court or judge thereof entering in a public docket to be kept for that purpose, in his own handwriting, the cause of such suspension.

§ 22. PRESUMPTIVE EVIDENCE ADMISSABLE—GOVERNMENT RECEIPT PRIMA FACIE EVIDENCE OF SALE.] In prosecutions under this act, by indictment or otherwise, it shall not be necessary to state the kind or quantity of liquor sold, or kept for sale, and shall not be necessary to describe the place where sold, or kept for sale, except in prosecutions for keeping and maintaining a common nuisance, and in proceedings for enjoining the same, or where a lien is sought to be established against the place where such liquors are illegally sold or kept for sale; and it shall not be necessary in the first instance for the State to prove that the party charged did not have a permit to sell intoxicating liquors for the excepted purposes; and in any prosecutions for the second or subsequent offense, it shall not be requisite to set forth in the information or affidavit or indictment the record of the former conviction, but it shall be sufficient briefly to allege such conviction; and in all cases the person or persons to whom such intoxicating liquors shall have been sold in violation of this act shall be competent witnesses to prove such fact, or any other fact tending thereto; and the members, shareholders or associates in any club or association shall be competent witnesses to prove any violation of the provisions of this act or any fact tending thereto. In actions or proceeding for the abatement of nuisances under this act evidence of the general reputation of the place designated in the complaint shall be admissable for the purpose of proving the existence of such nuisance, and in all cases, other than those where intoxicating liquor is lawfully sold by virtue of the provisions of this act, the fact that any person engaged in any kind of business has or keeps posted in or about his place of business a receipt or stamp showing payment of the special tax levied under the laws of the United States upon the business of selling distilled, malt or fermented liquor, or the holding of a license from the Government of the United States in the name of

any person, persons or corporation to sell intoxicating liquor shall be held and deemed *prima facie* evidence against such person, persons or corporation, that he, or they or it are keeping for sale and selling intoxicating liquors contrary to law. And upon trial of every indictment, information or contempt proceedings for a violation of the provisions of this act, proof of the finding of intoxicating liquor in the possession of the accused, in any place except his private dwelling house or its dependencies, or in such dwelling house if the same is a tavern, store, public eating house, grocery or other place of public resort, or in unusual quantities in the private dwelling house or its dependencies of any person keeping a tavern, store, public eating house, grocery or other place of public resort, unless in the possession of one legally authorized to sell the same, shall be received and acted upon by the court or judge as presumptive evidence that such liquor was kept for sale contrary to the provisions hereof. No person shall be excused from testifying touching any offense committed by another against any of the provisions of this act by reason of his testimony tending to criminate himself (the witness), but the testimony given by such person shall in no case be used against him.

§ 23. SPECIAL CHARGE TO GRAND JURY.] It shall be and is hereby made the duty of all courts of this State before whom a grand jury is summoned, to charge such grand jury especially concerning this act, and direct said jury to inquire particularly of all violations of any of its provisions.

§ 24. WHEN DRUGGIST PROHIBITED FROM SELLING LIQUOR UPON ANY TERMS.] Whenever the father, mother, brother, sister, wife, husband or guardian, or any relative of any person shall notify any druggist that such person, naming him, is in the habit of becoming intoxicated, and shall forbid said druggist from selling, bartering or giving to such person any intoxicating liquors, it shall be unlawful for any such druggist, after such notice, to let such person have any intoxicating liquors upon any terms or conditions whatever. Any druggist who shall violate the provisions of this section 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 five hundred (500) dollars, and shall be imprisoned in the county jail for a period of not less than thirty days nor more than six months.

§ 25. TREATING, PENALTY FOR.] The treating or giving of any intoxicating liquors to any minor by any person other than the father, mother, or guardian of such minor, or any physician for medical purposes, shall be unlawful, and any person violating the provisions of this section shall for the first offense be deemed guilty of a misdemeanor, and for the second and each succeeding offense be deemed guilty of a felony, and upon conviction thereof shall be punished therefor as provided in the last preceding section of this act for unlawfully selling intoxicating liquors.

§ 26. LIABILITY OF COMMON CARRIERS.] Any officer, agent or employe of a railroad company, express company, or other common carrier who shall within this State knowingly receive, carry, or deliver any intoxicating liquors to or for any person to be sold in violation of this act shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined not less than one hundred (100) dollars nor more than five hundred (500) dollars and be imprisoned in the county jail not less than thirty nor more than sixty days.

§ 27. IN CASE OF SURRENDER OF BOND.] In case any person has been arrested for any violation of this act and given a bond and the bond has been forfeited, and before the determination of the suit on the bond the defendant has been surrendered to the sheriff by his bondsmen, the defendant shall stand committed until all costs to that date accrued on the criminal suit be paid; and if he fails to pay the same the bondsmen are required to pay such costs in addition to the costs of the suit on the bond and a reasonable attorney's fee, to be fixed by the court, for the prosecution of both the criminal charge and the suit on the bond; *Provided*, That no defendant shall be imprisoned for a longer period by virtue of this section than is prescribed for the first offense in Section 4 of this act.

§ 28. PENALTY FOR NEGLIGENCE OF DUTY OF ATTORNEY, JUDGE OR AUDITOR.] Every state's attorney, county auditor or county judge, who shall neglect or refuse to perform any duty required of him under this act, the punishment for which is not hereinbefore provided by this act, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than five hundred (500) dollars nor more than \$1,000, and in addition thereto shall forfeit his right to longer hold his office, and the court before whom such conviction is had shall order and adjudge such forfeiture.

§ 29. STATE'S ATTORNEY CONSTRUED.] Whenever the words state's attorney shall be used in this act, they shall be construed to designate the legal officer of the county, whether he may be known under the name state's, county or district attorney.

§ 30. OBLIGATIONS TO PAY FOR LIQUOR FOR UNLAWFUL SALE NULL AND VOID—INNOCENT HOLDERS OF NEGOTIABLE PAPER NOT AFFECTED.] All payments or compensation for intoxicating liquors sold in violation of this chapter, whether such payments or compensation be in money, goods, land, labor or anything else whatsoever, shall be held to have been received in violation of law and against equity and good conscience, and to have been received upon a valid promise and agreement of the receiver in consideration of the receipt thereof, to pay on demand to the person furnishing such consideration the amount of said money, or the just value of such goods, and labor or other thing. All sales, transfers, conveyances, mortgages, liens, attachments, pledges and securities of every kind, which either in whole or in part shall have been

made for, or on account of intoxicating liquors sold in violation of this act, shall be utterly null and void against all persons in all cases, and no rights of any kind shall be acquired thereby, and no action of any kind shall be maintained in any court in this State for intoxicating liquors, or the value thereof, sold in any other State or country contrary to the law of said state or country, or with intent to enable any person to violate any provision of this act, nor shall any action be maintained for the recovery, or possession of any intoxicating liquors, or the value thereof, except in cases where persons owning or possessing such liquor, with lawful intent may have been illegally deprived of the same. Nothing, however, in this section, shall effect in any way negotiable paper, in the hands of holders thereof, in good faith for valuable consideration, without notice of any illegality in its inception or transfer, or the holder of land or other property, who may have taken the same in good faith without notice of any defect in the title of the person from whom the same was taken, growing out of a violation of the provisions of this act, and all evidence given in actions brought by or against such holders, shall be in no way affected by the provisions of this act.

§ 31. WHEN ACT TO TAKE EFFECT.] The absence, in the present laws of North Dakota of speedy and adequate remedies for the enforcement of Article 20 of the Constitution, creates an emergency, which calls for the immediate taking effect of this act; therefore, the same shall take effect and be in force from and after July 1, 1890.

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

Approved December 19, 1889.

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# PROTECTION OF MECHANICS.

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## CHAPTER 111.

[H. F. 171.]

### CERTAIN CONTRACTORS TO GIVE BONDS FOR PAYMENT OF LABOR AND MATERIAL.

AN ACT to Protect Mechanics, Laborers and Persons Furnishing Material for the Construction of Public Buildings and Making Public Improvements.

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

§ 1. BOND FOR PAYMENT OF LABOR TO BE GIVEN BY CONTRACTOR ON PUBLIC WORKS.] That whenever any public officer or officers shall, under the laws of this State, enter into contract in any sum exceeding one hundred (100) dollars, with any person or persons, for the purpose of making any public improvements, or constructing any public building or making repairs on the same, such officer or officers shall take from the party contracted with a bond with good and sufficient sureties to the State of North Dakota, in a sum not less than the sum total in the contract, conditioned that such contractor or contractors shall pay all indebtedness incurred for labor or material furnished in the construction of said public building or in making said public improvements.

§ 2. BOND, HOW EXECUTED.] Said bond shall run to the State of North Dakota, shall be executed by two or more sureties and shall be for an amount at least equal to the contract price stated in the contract upon which the bond is given. It shall be approved by the clerk of the district court of the county in which such public improvement is to be made and the sureties thereon shall each qualify in a sum equal to double the amount of the bill.

§ 3. BOND TO BE FILED—ACTIONS, HOW BROUGHT.] That such bond shall be filed in the office of the clerk of the district court of the county in which such public improvement is to be made or such public building is to be erected; and any person to whom there is due any sum for labor or material furnished, as stated in Section 1 of this act, or his assigns, may bring an action on said bond for the recovery of said indebtedness; *Provided*, That no action shall be brought on said bond after three months from the completion of said public improvements or public buildings.

Approved February 6, 1890.

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## PROXIES.

### CHAPTER 112.

[S. F. 181.]

#### REGULATION OF USE OF PROXIES IN CONVENTIONS.

AN ACT Regulating the Use of Proxies in State, District and County Conventions.

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

§ 1. WHAT PROXIES UNLAWFUL.] It is hereby made unlawful for any person to use or attempt to use the proxy of any delegate elected to any state, district or county convention, of a political character, unless he holds his legal residence within the same political subdivision which is recognized as the unit of representation in the convention in which the proxy is used or sought to be used.

§ 2. PENALTY.] Any person violating the provisions of this act is guilty of a misdemeanor, and upon conviction thereof shall be fined not less than twenty (20) dollars, or be confined in the county jail not less than ten days, or both, at the discretion of the court.

Approved March 20, 1890.

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## PUBLIC CREDIT.

### CHAPTER 113.

[S. F. 49.]

#### AUTHORIZING ISSUE OF FUNDING WARRANTS.

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 2 of Chapter 58 of the General Laws of 1879, be and the same is hereby amended to read as follows:

“Sec. 2. STATE FUNDING WARRANTS, HOW ISSUED.] 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 that 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 6 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 \$50,000, nor shall they anticipate the needs of the State for a longer period than sixty days at any one time.”

§ 2. REPEAL.] That Section 4 of Chapter 58 of the General Laws of 1879, be and the same is hereby repealed.

§ 3. REPEAL.] 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 authority of law providing for the issue of funding warrants to provide payment of outstanding warrants until such outstanding warrants have been duly presented and registered for payment by the State Treasurer; therefore, for the reasons aforesaid, this act shall take effect and be in force from and after its passage and approval.

Approved January 10, 1890.

## CHAPTER 114.

[H. F. 323.]

### AMENDMENT TO CHAPTER 113, LAWS OF 1890.

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,’” approved January 10, 1890.

*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 January 10, 1890, be amended to read as follows:

“Sec. 1. STATE FUNDING WARRANTS, HOW 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 that 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 6 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 \$50,000, 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 March 18, 1890.

## CHAPTER 115.

[S. F. 97.]

### 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 Dakota 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 four 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.



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## PUBLIC EXAMINER.

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### CHAPTER 116.

[S. F. 148.]

#### POWERS AND DUTIES OF PUBLIC EXAMINER.

##### AN ACT Relating to the Duties of the Public Examiner.

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

§ 1. DUTIES OF PUBLIC EXAMINER.] It shall be the duty of the Public Examiner and he is hereby empowered and required, at the request of the county commissioners of any county in this State, to examine and audit, compare and correct any books, records, papers, securities or other documents necessary to be had in any pending settlement of the fiscal affairs, or any necessary corrections of the records of any county in this State.

§ 2. POWERS.] And further to carry out the intent and meaning of this act, he shall have free access to all books, papers, records or other documents of any county in the State, found or deemed by him necessary, and he is hereby empowered to take the records of any one county in this State, to any other county in this State when in his judgment it is deemed necessary to compare and correct the same.

§ 3. DUTY OF COUNTY OFFICERS TO ASSIST.] And all county officers in this State are hereby required and enjoined to assist said Public Examiner in the discharge of his duties in all things which he may require of them as said county officers.

§ 4. EMERGENCY.] Whereas, There is an emergency existing in that there is no adequate law relating to this matter, this act shall take effect and be in force immediately from and after the date of its passage and approval.

Approved March 20, 1890.

# PUBLIC OFFICERS.

## CHAPTER 117.

[H. F. 187.]

### SPECULATION IN OFFICE PROHIBITED.

AN ACT Relating to State, County and City Officers, to Restrain Them from Speculating in Their Offices.

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

§ 1. WHO RESTRAINED FROM SPECULATING IN OFFICE.] That it shall be unlawful for any State Treasurer or any of his deputies or clerks, or any city treasurer or any of his deputies or clerks, or any county officer or any of his deputies or clerks, or any school officer or his deputies or clerks, to buy directly or indirectly, or in anywise become a party in the purchase of or traffic in any State, county or city warrant, or any State, county, city or school script, or any bill, account claim or evidence of indebtedness against this State, or against any county or city of this state, for any sum less than the full par value expressed upon the face thereof, except such amounts of said State, county, city or school warrants as may be necessary to pay his individual taxes.

§ 2. PENALTY.] That any state or city treasurer or any deputy or clerk of any such treasurer, or any county officer or any deputy or clerk of any such officer, who shall violate any of the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction, shall be fined in a sum not less than fifty (50) dollars nor more than five hundred (500) dollars.

Approved February 12, 1890.

## CHAPTER 118.

[H. F. 94.]

## PENALTY FOR FAILURE TO MAKE REPORTS.

AN ACT Fixing the Penalty for Willful Neglect of Officers to Make Report Required by Law and Prescribing the Duties of the Attorney General in Relation Thereto.

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

§ 1. REPORTS, PENALTY FOR FAILURE OF OFFICIALS TO MAKE.] Any public officer who is required to make an official report to any other officer, board or tribunal and who shall willfully neglect to make such report at the time and substantially in the manner required by law, shall forfeit and pay to the State of North Dakota a penalty of not less than twenty (20) dollars nor more than five hundred (500) dollars, to be recovered from such delinquent officer, or from him, and the sureties upon his official bond, if he has given one, in a civil action to be brought by the Attorney General in any court of record having jurisdiction.

§ 2. ATTORNEY GENERAL MAY PROSECUTE.] Upon the willful neglect of any public officer to make any report required by law, it shall be the duty of the officer, board or tribunal to whom such report should be made, to promptly notify the Attorney General of such failure to report, whose duty it shall be to investigate the neglect of duty complained of; and, if in his opinion the officer has not a sufficient excuse for such failure, the Attorney General shall prosecute such officer for the recovery of the penalty above provided.

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

Approved February 5, 1890

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# PUBLIC PRINTING.

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## CHAPTER 119.

[S. F. 190.]

### PROVIDING FOR THE PUBLIC PRINTING OF THE STATE.

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. COMMISSION.] The Secretary of State, State Treasurer and State Auditor shall be *ex-officio* Commissioners of Public Printing during their terms of office respectively.

§ 2. PRINTING DIVIDED INTO CLASSES.] The printing of the State is hereby divided into five classes, the first and second to be let in one contract, and the third, fourth and fifth classes in separate contracts as follows:

First. The printing (in bill form) of bills, resolutions and other documents for the use of, and incident to, the Legislative Assembly shall constitute the first class.

Second. The printing and binding of the journals of the Senate and House of Representatives shall constitute the second class.

Third. The printing and binding (in book or pamphlet form) of executive or public documents and reports shall constitute the third class.

Fourth. The printing and binding of the volume of laws, with the joint resolutions, which shall be included in said volume, shall constitute the fourth class.

Fifth. The printing of all blanks, circulars and other miscellaneous job work necessary for the use of the Executive Departments, other than such as are printed in pamphlet form and not entering into the volumes of executive documents, and all printing not included in the foregoing classes shall constitute the fifth class.

§ 3. PROPOSALS.] The Commissioners of Public Printing shall, ninety days immediately preceding each biennial session of the Legislative Assembly, advertise for four weeks successively in two daily papers in the State, one of which shall be at the seat of government, inviting sealed proposals for doing all printing and

binding required by the Legislative Assembly and by the several State departments for the two succeeding years, and such bids shall specify at what per cent. below the maximum rates, severally prescribed in Section 4 of this act, the bidder will perform the work and furnish the stock; *Provided*, That the Commissioners of Printing may contract under the provisions of this act for such supplies and printing as may be required previous to the letting of the contract for the first regular biennial period.

§ 4. MAXIMUM PRICES.] The following prices are hereby established as the maximum prices for doing said work:

*Composition*—Sixty (60) cents for each 1,000 ems of plain composition; ninety (90) cents for each 1,000 ems of figure work; one dollar and twenty cents (\$1.20) for each 1,000 ems of rule and figure work.

*Presswork*—For the first 100 impressions of form, one (1) dollar; and twenty-five (25) cents for each additional 100 impressions or fraction thereof—one side of a sheet of flat cap, folio or medium, two pages on bill work and eight pages of pamphlet or journal work, or fraction thereof, to constitute a form.

Folding and pasting on the first and fifth class, for one fold, eight (8) cents per 100 sheets; for two folds on one sheet, twelve (12) cents per 100 sheets; for two folds and pasting and tipping, twenty-five (25) cents per 100 sheets including trimming. On the second, third and fourth class, when no charge is made for binding, ten (10) cents per 100 of eight pages or fractions thereof.

For stitching for all classes, including folding, collating, stabbing, stitching and trimming per 100 copies, for eight pages or less, thirty-five (35) cents per 100 copies, and for each additional signature of eight pages, ten (10) cents per 100 copies.

For binding for all classes, including folding, collating, stabbing, stitching and pamphlet covering for books of eight pages or less, per 100 copies forty (40) cents; for each additional signature of eight pages, ten (10) cents per 100 copies; if sewed instead of stitched, twelve (12) cents per 100 copies for each additional signature.

*For Binding*—Book work in tar board covered with paper, leather backs, lettered on back with ink, in addition to the pamphlet binding, thirty-five (35) cents per volume.

For binding book work in cloth, gilt lettering on back, in addition to pamphlet binding, thirty-five (35) cents per volume.

For binding in full law sheep and lettering, in addition to the pamphlet binding, seventy-five (75) cents per volume.

The printing under the fifth class, which includes miscellaneous job work for the executive departments, and other miscellaneous printing not covered by this act, shall be under the control of the Commissioners of Printing, who shall secure the same at the lowest rates, and upon the most advantageous terms.

For printing blank books, either ruled and printed or ruled

without printing, the paper used to be sized and calendered, and of standard brands:

*Cap Paper*—Eighteen pounds to the ream, plain ruled, half bound, \$1.25 per quire; ditto, printed heads, \$1.75 per quire; ditto, plain ruled extra full bound, \$2.00 per quire; ditto, printed heads, \$2.50 per quire.

*Demy Paper*—Twenty-eight pounds to the ream, plain ruled, half bound, \$1.50 per quire; ditto, printed heads, \$2.00 per quire; ditto, plain ruled, extra full bound, \$2.50 per quire; ditto, printed heads, \$3.00 per quire.

*Medium Paper*—Thirty-six pounds to the ream, plain ruled, half bound, \$2.00 per quire; ditto, printed heads, \$2.50 per quire; ditto, plain ruled, extra full bound, \$3.00 per quire; ditto, printed heads, \$3.50 per quire.

*Medium Paper*—Forty pounds to the ream, plain ruled, extra full bound, \$4.00 per quire; ditto, printed heads, \$4.50 per quire.

*Super Royal Paper*—Fifty-four pounds to the ream, plain ruled, extra full bound, \$4.50 per quire; ditto, printed heads, \$5.00 per quire.

All paper used for printing and binding, of whatever nature, shall be standard weights and grades, and approved by the Commissioners of Printing. The maximum price of sized and calendered book paper shall be ten (10) cents per pound; of linen ledger paper, twenty-five (25) cents per pound; common flat paper, eighteen (18) cents per pound; best bond paper, twenty-five (25) cents per pound.

§ 5. PROPOSALS, HOW MADE—BOND.] Each proposal shall be in writing, sealed and addressed to the Secretary of State, and shall be accompanied by a bond, executed in due form, by the bidders, with at least two good and sufficient sureties, satisfactory to the commissioners, in the penal sum of \$4,000, conditioned for the faithful performance, pursuant to this chapter, of such class or classes of the State printing as may be adjudged to him, and for the payment, as liquidated damages, by such bidder to the State, of any excess of cost over the bid or bids of such bidders, which the State may be obliged to pay for such work, by reason of the failure of such bidder to complete his contract. No bid unaccompanied by such bond shall be considered, and the right is reserved to the Commissioners of Printing to reject any bid or bids made by any other than regularly established and thoroughly competent printers, and shall also have the right to reject any or all bids if in their judgment the best interests of the State would be subserved thereby.

§ 6. AWARDS.] The Commissioners of Printing, or any two of them, shall within two days after the expiration of the term for receiving proposals as aforesaid, proceed to open in public all such proposals by them received, and they shall award the contract for each class of printing to the lowest bidder therefor, subject to the reservations of the preceding section; *Provided*, That nothing

herein contained shall be construed so as to prevent the same person from becoming contractor for two or more classes of printing, if he shall be the lowest bidder therefor. If two or more persons bid the same, and the lowest price for any class or classes of printing, the commissioners shall award the contract to such one or more of them as, in their opinion, will best subserve the interests of the State.

§ 7. HOW BILLS TO BE PRINTED.] Work of the first class shall be printed on first-class sized and calendered paper, from small pica type, with double the space between each line, the printed pages to be thirty-three ems pica wide and fifty-five ems pica long; one hundred and fifty copies of each bill shall be printed unless otherwise ordered by resolution of either house.

§ 8. HOW JOURNALS TO BE PRINTED.] The journals of the Legislative Assembly shall be printed on first-class, sized and calendered paper, of not less than forty pounds to the ream, size 25x38, from long primer type set solid, (except that extracts, table work, roll calls, etc., may be set in brevier or smaller type); the printed pages to be twenty-five ems pica in width and forty-three ems pica in length. Double the contract price will be allowed upon the journals when printed daily for the use of the members, but nothing shall be charged for composition or correction, or reimposition of the same matter for the bound journals, nor shall extra charge for composition be made when extra or additional copies are ordered printed.

§ 9. EXECUTIVE DOCUMENTS, HOW PRINTED.] The pamphlets and volumes of executive or public documents and reports shall be printed on first-class sized and calendered paper, of not less than forty pounds to the ream, size 25x38, from long primer type, set solid; *Provided*, that extracts and tabular work may be set in brevier or smaller type, the printed pages to be twenty-five ems pica in width and forty-three ems pica in length. The reports of the officers of the various departments of the government, required to be made out for the use of the Legislative Assembly and the information of the public, shall be printed and bound as elsewhere in this act provided, and the various reports, communications and other documents shall be reimposed and form the volumes of executive and public documents. There shall be no charge for the composition of matter used in the volumes of "executive documents," or as separate pamphlets, or as parts of reports that are to be used, or had been previously used and paid for in the pamphlet form; *Provided*, That the order for the same is given before the forms of type are distributed; but the maximum rate of one dollar for reimposition of each form of eight pages may be allowed. The volumes of the executive documents shall be paged consecutively, and the reports therein made up in as close and compact order as is consistent with good workmanship, without intervention of unnecessary blanks or separate title or half title pages, and at the conclusion of each volume there

shall be an index referring to the particular page at which each separate document commences. The commissioners of printing shall determine what reports and documents shall be printed in pamphlet form, and the number of copies of each report or document, where not specified by law. There shall be printed and bound three hundred copies of each volume of the executive documents.

§ 10. LAWS, HOW PRINTED.] The laws specified in the fourth class shall be printed in substantially the same form, as to type, paper and form, as is prescribed for the printing of public documents in Section 9 of this act.

§ 11. ESTABLISHED PRINTING HOUSES.] All printing shall be done by established printing houses in this State, which shall have been doing business in the State not less than one year, and all work shall be executed in a style consistent with good workmanship and with due reference to economy.

§ 12. DUTIES OF COMMISSIONERS IN CASE OF FAILURE ON CONTRACT.] If from death, or any unforeseen cause there be a failure on the part of any successful bidder to execute his contract, the Commissioners of Printing, or a majority of them, may enter into a contract with the next lowest bidder. If any contractor, after commencing upon his contract, fails to execute the work embraced therein with reasonable expedition, and in a suitable manner, the Commissioners of Printing may notify him that, for reasons they may specify, his contract is cancelled, and they may then contract with some other person to do the work at the lowest practicable rate; *Provided*, That the Commissioners of Printing may give written notice to any contractor who is delaying the execution of the work in a manner they may deem unreasonable, that the same must be completed within a specified time, and for failure to complete the same within the time noted, that for every twenty-four hours' delay thereafter the contractor shall suffer a penalty of one-quarter per cent. to be deducted from the net amount of the bill for the printing so delayed.

§ 13. NUMBER OF REPORTS TO BE PRINTED.] Five hundred volumes of the laws required by this act to be printed shall be bound in full law sheep, and two thousand copies shall be half-bound. The volumes of "executive documents" provided for in Section 9 of this act, shall be bound in half-binding. Two hundred copies of the biennial reports of the State Auditor, State Treasurer, Commissioner of Insurance and Superintendent of Public Instruction, shall be bound in cloth, the remainder authorized by law to be bound in pamphlet form, unless otherwise ordered by the Commissioners of Printing.

§ 14. UNNECESSARY DELAY.] All contractors under the provisions of this act shall, promptly and without unnecessary delay, execute all orders to them issued by the Legislative Assembly or either branch thereof, or by the Commissioners of Printing, on behalf of the executive officers of the State; and the laws and volumes



of public documents shall be delivered to the Secretary of State within seventy days, and the journals of the two houses of the Legislative Assembly within sixty days after the index shall have been made out and delivered to the contractor; *Provided, however,* That the Commissioners of Printing may, on good cause shown by any such contractor, extend the time, not exceeding twenty days, for the execution of his contract.

§ 15. COMMISSIONERS MAY REJECT INFERIOR PRINTING.] The Commissioners of Printing may reject any and all printing that is not done in a workmanlike manner, or with good material and with ordinary promptness; and may require contractors to present specimen pages of the type they propose to use, and may reject the same, in their discretion, and require new material, and their ruling and determination shall be final and conclusive on the contractor, the intention of the law being that only good, clean and satisfactory work will be accepted, and that it must be done within a reasonable time. And, to accomplish this end, the Commissioners of Printing may withdraw the work from any contractor for unreasonable delay, or for neglect or refusal to use new material, if so required, or for neglect or refusal to furnish good, clean or satisfactory work, and may, by their agent or otherwise, go into the open market and contract for and have same done, to be paid for in the same manner and from the same fund, as would have been paid the original contractor; and if from any cause there is an excess of cost over and above what the same would have been, if furnished by the original contractor, such excess shall be charged to and collected from the original contractor, or shall be made payable by and collected from the bondsmen of the said original contractor; and the action of the said Commissioners of Printing in this matter shall be final and conclusive on said original contractor and his sureties.

§ 16. CLERKS TO KEEP LEGISLATIVE JOURNALS.] The secretary of the Senate and the chief clerk of the House of Representatives, shall keep a journal of the proceedings of their respective houses, and furnish a copy immediately upon each daily adjournment to the contractor for printing the same, who shall print and deliver the same at the commencement of the next day's session, for the use of the members of the Legislative Assembly—the number of copies of each daily journal to be determined by resolution of each branch of the Legislative Assembly. After being read in the house to which the journals respectively belong, and examined and compared with the minutes of the record or bill clerk, or the clerk having charge of the record of bills, memorials and joint resolutions, and in the presence and with the sanction of the house corrected, as found and declared to be correct, the proceedings of each day shall be attested by said secretary and chief clerk, and immediately thereafter delivered to the printer of the journals, who shall make the authorized corrections, if any, and print the sheets for the bound volumes of the journals. Each journal shall be recorded

in books to be furnished by the Secretary of State for that purpose. After the journals are recorded, said books shall be deposited with the Secretary of State, who shall carefully preserve the same, and said records shall be considered the true and authentic journal.

§ 17. COPY TO BE FURNISHED PRINTER.] The Secretary of State shall furnish a true and accurate copy of the laws as they may be demanded by the printer thereof, and the clerks of the respective branches of the Legislative Assembly shall each furnish for the printer, who is bound by his contract to print the same, copies of the journals, bills, reports, and other papers and documents, without unnecessary delay, and no contractor shall be accountable for any delay occasioned by the want of such copy.

§ 18. AUTHENTICATION.] All laws printed or published by authority of this State shall be printed or published without any certificates or additions to the same, except the word "approved," and the date of said approval, and in each volume of the Session Laws hereafter published there shall be a general certificate, made by the Secretary of State, to the effect that all laws, memorials, and resolutions contained therein have been compared by him with the originals thereof in his office, and that they are correct copies thereof.

§ 19. GOVERNOR'S MESSAGES.] All regular messages from the Governor, and all inaugural messages of the Governor-elect, shall be printed in pamphlet form, and there shall be printed in such form for the Governor's use 500 copies thereof, and for the use of the Legislative Assembly 2,000 copies, without any order by either or both houses for the printing thereof.

§ 20. BIENNIAL REPORTS, NUMBER OF.] There shall be printed 1,000 copies of the biennial reports of the State Auditor, Treasurer, Commissioner of Insurance and Superintendent of Public Instruction, and 500 copies of the biennial reports of other State officers and public institutions required to make reports.

§ 21. JOURNALS AND LAWS, NUMBER OF.] There shall be printed 150 copies of each journal for the daily use of the Legislative Assembly, and 300 copies of the bound edition which shall be in half binding; *Provided*, That the Legislative Assembly may by concurrent resolution increase this number; 2,500 copies of the General and Special Laws and joint resolutions shall be printed in one volume, and bound in accordance with the provisions of this act.

§ 22. COMMISSIONERS TO HAVE CHARGE OF ALL PRINTING PAID FOR BY THE STATE.] The Commissioners of Printing are hereby authorized to have charge of all the printing and binding required to be done for the several departments of the government; to receive the proper orders for the same and to have the same properly executed according to law; to keep a record of all work ordered from the several contractors under the law, and of all printing and binding ordered by the Legislative Assembly; to examine and supervise the work of printing in progress and see that

it is executed with due economy to the State; to make or authorize to be made the necessary indices for the permanent journals of the Legislative Assembly and for the volumes of the executive documents and reports; to examine all accounts of printing and binding that may be presented, and to adjust the same according to the terms of the contracts, and in accordance with law and such rulings as may be determined by the Commissioners of Printing; *Provided*, That no printing required by any State officer as provided under this act, shall be paid for unless the same shall have first been authorized by the Legislative Assembly or by the Commissioners of Printing.

§ 23. **BILLS FOR PRINTING TO BE ACCOMPANIED BY COPIES OF DOCUMENTS.]** Every contractor for any class of the public printing shall file and preserve one copy of each document or other matter by him printed for the State, which he shall deliver to the superintendent [Commissioners] of Printing at the same time the completed work is delivered, together with a memorandum bill of the same. In the account submitted for the payment of the work the contractor will at the same time submit his order for the work, and state specifically the nature of the work performed, the number of copies, the number of ems of composition, the extra charge, if any, for rule or figure, and rule and figure work; the number of impressions of press work; the cost of folding and binding, and any other charges for which he claims payment; and if there is a charge for any alterations or changes from copy, the proofs of original composition and changes must be presented.

§ 24. **ACCOUNTS, HOW CERTIFIED.]** When the account of any contractor under this act shall have been adjusted the Commissioners of Printing shall certify the same to the State Auditor, who on the receipt thereof shall give his warrant upon the Treasurer of the State for the amount thereof; *Provided*, That in the current execution of such contract the Commissioners of Printing are hereby empowered, in their discretion, to deliver to said contractor a certificate for an amount not exceeding 75 per cent. of completed work, upon the contractor filing with the Commissioners of Printing a statement of the amount of work done, for which amount the State Auditor shall give his warrant upon the Treasurer of the State to said contractor.

§ 25. **DISTRIBUTION OF PUBLIC DOCUMENTS.]** Every member and officer of the Legislative Assembly, for himself, and every clerk of a court of record, and every county auditor, for the use of their offices respectively, is entitled to one copy of each journal and appendix, and the volumes of the executive documents. Every university, college, academy, or other literary institution within the State is entitled to one copy of the General Laws passed at each session of the Legislative Assembly, and also the volumes of executive documents.

§ 26. **WHO ENTITLED TO LAWS—PENALTY FOR FAILURE OF OFFICERS TO TURN OVER TO SUCCESSORS.]** 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, surveyor, coroner 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.

§ 27. EXCHANGE.] The Secretary of State shall deliver to the Governor, Auditor and Treasurer of State, each three copies of the laws and one of the journals and documents; to the Attorney General, the Adjutant General, the Railroad Commissioners, the Commissioner of Insurance, the Commissioner of Agriculture and Labor, the clerk of the Supreme Court, the Supreme Court reporter, the Superintendent of Public Instruction, the superintendent of every State benevolent society, each public institution, to the United States Circuit Judge, to the United States District Judge, to the Clerk of each of the United States Courts, and to the United States Marshal, one copy of the same. He shall supply each state, and each of the departments and territories of the United States and the general government of the United States with a copy. He shall furnish the State Library with ten copies of the general and special laws, both journals, and the volumes of executive documents.

§ 28. SECRETARY TO FORWARD LAWS, ETC.] The Secretary of State shall, as soon as the laws, journals and executive documents of each session are printed and ready for distribution, box up the number of each to which each county is entitled and forward the same by public conveyance to the auditor of the county. If any county seat be so situated that the laws, journals and documents cannot be sent to the same by public conveyance, they shall be forwarded to a secure place as near such county seat as practicable, and the Secretary of State shall notify the county auditor in writing of the delivery of the same at such point, and the county auditor shall contract with some person to convey the same to the county seat.

§ 29. DOCUMENT FUND.] For the purpose of defraying the expenses incident to the provisions of the four preceding sections, there is hereby annually appropriated the sum of two hundred (200) dollars to be designated the "document fund," upon which

the Secretary of State can draw at such times and for such amounts as may be necessary in the discharge of the duties imposed by said sections.

§ 30. COUNTY AUDITOR, WHEN TO DELIVER DOCUMENTS.] The county auditor shall deliver the laws, journals and documents to such persons and institutions as are entitled to receive them, when requested so to do, and shall take receipts therefor, and file the same in his office, subject to inspection.

§ 31. OFFICIALLY PRINTED.] All laws, journals and documents printed and published by any contractor under the provisions of this chapter, and duly certified by the Secretary of State, as provided herein, shall be deemed to be officially printed and published, and full faith and credit shall be given to them as such.

§ 32. SURPLUS DOCUMENTS, ETC.] All copies of the journals, executive documents and laws which are not distributed under the provisions of this chapter shall be preserved in the office of the Secretary of State, subject to future distribution by law.

§ 33. WHEN OFFICIAL REPORTS TO BE MADE.] All county, township, city and village officers, and all officers and boards of officers of all State institutions and buildings, and all officers connected with the public works of the State, and all corporations (except such as by their charter are required to make their reports at some other specified time) which are required by law to make annual reports for any purpose to any State officer, shall make out and transmit the same on or before the fifteenth day of November of each year to the proper officer. For the purpose of making out all such reports, the year shall begin on the first day of November of each year and end on the last day of October of the succeeding year.

§ 34. REPORTS TO GOVERNOR AND LEGISLATURE—WHEN TO BE MADE.] All State officers and boards of officers, and the officers of all such institutions and buildings, as are required to make annual [or biennial] report to the Legislative Assembly or to the Governor, shall make such report to the Governor on or before the fifteenth day of November of each year (and for the purpose of making out such reports the fiscal year is declared to begin on the first day of November of each year, and to end on the last day of October of the succeeding year). The Governor, upon receiving such reports, shall deliver the same to the Commissioners of Public Printing to be printed, and the Governor shall lay before the Legislative Assembly all such reports in printed form at the same time with his annual [biennial] message.

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

§ 36. EMERGENCY.] Whereas, an emergency exists in that there is no provision under the present statutes for printing beyond the session of the first Legislative Assembly, therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 3, 1890.

## CHAPTER 120.

[H. F. 311.]

## WHAT NEWSPAPERS ARE QUALIFIED TO DO LEGAL PRINTING.

AN ACT to Define What Newspapers are Entitled to Publish Legal Notices and do Public Printing.

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

§ 1. WHAT NEWSPAPERS QUALIFIED TO DO LEGAL PRINTING.] Before any newspaper in this State shall be entitled to publish any legal notice of any nature or do any public printing for the State, or any county, city, town or other municipality within the State, such newspaper must have been established at least six months, and have been in regular and continuous circulation during that time and have a *bona fide* circulation of at least 150 regular and continuous subscribers. Such newspaper must contain at least four pages of five columns each, standard size and length and contain on an average of not less than four columns of reading or news matter; *Provided, however*, that in all counties organized hereafter, all newspapers conforming otherwise to the provisions of this act shall be entitled to publish legal notices and do public printing, from their incipiency.

§ 2. PUBLISHER TO FILE AFFIDAVIT.] It shall be the duty of the owner, owners or managers of any newspaper in this State and before such newspaper can be awarded any contract for public printing of any nature whatsoever or publish any legal notices of any kind or nature, to file with the county auditor of the county in which such newspaper is published, a statement, properly certified to before any officer empowered to administer oaths, setting forth the number of regular and continuous subscribers and the length of time such newspaper has been established and in general circulation.

§ 3. PENALTY.] All persons, associations or corporations, publishing any legal notices or doing any public printing contrary to the provisions of this act shall be liable to a fine of not less than twenty-five (25) dollars nor more than two hundred (200) dollars, and a forfeiture of all pay for any such printing to be recovered in any court of competent jurisdiction.

Approved March 31, 1890.

## CHAPTER 121.

[H. F. 209.]

## STATIONERS' SUPPLIES FOR LEGISLATURE AND STATE OFFICERS.

AN ACT to Provide for the Purchase of Stationers' Supplies for the Use of the Legislative Assembly and the Various State Officers, and Making an Appropriation Therefor.

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

§ 1. STATIONERS' SUPPLIES, WHO TO PURCHASE.] The Commissioners of Printing, consisting of the Secretary of State, State Auditor and State Treasurer, are hereby authorized to purchase all stationers' supplies required for the use of the Legislative Assembly and the various State officers, and the Secretary shall issue the same from time to time as required on requisition of the proper State and legislative officers.

§ 2. PROPOSALS—MAXIMUM PRICES.] It shall be the duty of the Commissioners of Public Printing to make an estimate of the amount and kind of stationers' supplies required for the use of the State officers and the Legislative Assembly, annually hereafter, on or before the first day of October in each year, and advertise for bids for furnishing the same. The board herein named shall fix the maximum rate on each article required and the bidder or bidders shall specify at what per cent. below the maximum rates so established the bidder will furnish the articles named; *Provided*, That the Commissioners of Printing may contract for such supplies as may be required prior to the letting of the contract for the first annual period.

§ 3. NOTICE OF PROPOSALS.] It shall be the duty of the commission herein named to give public notice, for at least four consecutive weeks, by advertisement in four daily newspapers, printed in this State, one of which shall be published at the capital of the State, that sealed proposals will be received until . . . . ., (naming the day, month and hour), at the office of the Secretary of State, for furnishing such quantities of stationers' supplies, describing the same, required. To secure the faithful performance of said contracts, the Commissioners of Printing shall take from the contractor or contractors, a bond payable to the State of North Dakota, with good and sufficient security, to be approved by the Secretary of State, in the penal sum of not less than double the amount to be paid such contractors, by virtue of such contracts; *Provided*, That the said commission shall have power, and it shall

be their duty, to reject any or all bids that may be considered exhorbitant or against the interests of the State.

§ 4. CONTRACTOR TO FILE BOND.] Said bond shall be filed and retained in the office of the Secretary of State, and for any failure to comply with any of the conditions therein contained may be prosecuted in the name of the State in any court of competent jurisdiction, and the amount of damages when collected shall be paid into the State Treasury.

§ 5. APPROPRIATION.] The Commissioners of Printing shall certify to the State Auditor, from time to time, the amount due to such contractors, for stationers' supplies furnished under said contract, who shall issue his warrant upon the State treasury for the amount so certified; and there is hereby appropriated annually out of any monies in the treasury not otherwise appropriated a sufficient sum to meet the requirements of this act; *Provided*, That said Auditor shall not give his warrant for an amount to exceed 75 per cent. of the amount certified until said contract shall be fully completed and fulfilled.

§ 6. REPORT TO LEGISLATURE.] The Commissioners of Printing shall report to the Legislative Assembly, on the first day of each regular session, an itemized account of all stationers' supplies purchased by them with prices paid for same.

§ 7. EMERGENCY.] Whereas, an emergency exists, in that there is no law providing for the purchase of stationers' supplies for the State; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 20, 1890.



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# RAILROADS.

## CHAPTER 122.

[S. F. 41.]

### TO REGULATE COMMON CARRIERS AND DEFINE THE DUTIES OF THE COMMISSIONERS OF RAILROADS.

AN ACT Entitled "An Act to Regulate Common Carriers, and Defining the Duties of the Commissioners of Railroads in Relation Thereto, in the State of North Dakota.

*Be it Enacted by the Legislative Assembly of the State of North Dakota.*

§ 1. (a) **TO WHOM ACT SHALL APPLY.]** That the provisions of this act shall apply to any common carrier or carriers engaged in the transportation of passengers or property wholly by railroad, or partly by railroad and partly by water, when both are used under a common control, management or arrangement for a carriage or shipment from one place or station to another, both being within the State of North Dakota; *Provided*, That nothing in this act shall apply to street railways or to the carriage, storage or handling by any common carrier of property free or at reduced rates for the United States or for the State of North Dakota, or for any municipal government or corporation within the State, or for any charitable purpose, or to or from fairs and expositions for exhibition thereat, (or stock for breeding purposes), or to the issuance of mileage, excursion or commutation passenger tickets, at rates made equal to all, or to transportation to stock shippers with cars; and nothing in the provisions of this act shall be construed to prevent common carriers, subject to the provisions of this act, from issuing passes for the free transportation of passengers, or to ministers of religion, sisters of charity, or, to missionaries or to students of any college or university or other institutions of learning of this State, or to children attending any of the educational or charitable institutions of the State subject to the provisions of this act.

(b) **TERM "RAILROAD" DEFINED.]** The term "railroad" as used in this act shall include all bridges or ferries used or operated in connection with any railroad, and also all the road in use by any corporation operating a railroad, whether owned or operated under a contract, agreement or lease; and the term "transportation" shall include all instrumentalities of shipment or carriage.

§ 2. (a) CHARGES TO BE EQUAL AND REASONABLE.] That all charges made by any common carrier, subject to the provisions of this act, for any service rendered or to be rendered in the transportation of passengers or property as aforesaid, or in connection therewith, or for the receiving, delivering, storage or handling of such property shall be equal and reasonable; and every unequal and unreasonable charge for such service is prohibited and declared to be unlawful; *Provided*, That one car load of freight of any kind or class shall be transported at as low a rate per ton, and per ton per mile, as any greater number of car loads of the same kind and class from and to the same points of origination or destination.

(b) NO PREFERENCE TO BE GIVEN.] It shall be unlawful for any common carrier, subject to the provisions of this act, to make or give any unequal or unreasonable preference or advantage to any particular person, company, firm, corporation or locality or any particular description of traffic, in any respect whatsoever or to subject any particular person, company, firm, corporation or locality, or any particular description of traffic to any unequal or unreasonable prejudice or disadvantage in any respect whatsoever.

§ 3. (a) AMPLE FACILITIES FOR TRANSFERRING, ETC.] That all common carriers, subject to the provisions of this act, shall, according to their respective powers, provide at the point of connection, crossing or intersection, ample facilities for transferring cars and for accommodating and transferring passengers, and traffic of all kinds and classes, from their lines or tracks, to those of any other common carrier whose lines or tracks may connect with, cross or intersect their own, and shall afford all equal and reasonable facilities for the interchange of cars and traffic between their respective lines, and for the receiving, forwarding and delivering of passengers and property and cars to and from their several lines and those of other common carriers connecting therewith, and shall not discriminate in their rates and charges between such connecting lines, or for freight coming over such lines; but this act shall not be construed as requiring any common carrier to use for another common carrier its tracks, equipments or terminal facilities without reasonable compensation.

(b) SHALL NOT PREVENT CARRIAGE OF FREIGHT FROM BEING CONTINUOUS.] That it shall be unlawful for any common carrier subject to the provisions of this act, to enter into any combination, contract or agreement, expressed or implied, to prevent, by change of time or schedule, or by carriage in different cars, or by any other means or devices, the carriage of freight from being continuous from the place of shipment to the place of destination; and no break of bulk, stoppage or interruption made by such common carrier shall prevent the carriage of freight from being treated as one continuous carriage from the place of shipment to the place of destination, unless such break, stoppage or interruption was made

in good faith for some necessary purpose and without any intent to avoid or unnecessarily interrupt such continuous carriage or to evade any of the provisions of this act.

(c) SHALL FURNISH, START AND RUN CARS WITHOUT DELAY.] Every common carrier operating a railway in this State shall, without unreasonable delay, furnish, start and run cars for the transportation of persons and property, which, within a reasonable time theretofore, is offered for transportation at any of its stations on its line of road and at the junctions of other railroads, and at such stopping places as may be established for receiving and discharging passengers and freights; and shall take, receive, transport and discharge such passengers and property at, from and to such stations, junctions and places, on and from all trains advertised to stop at the same, for passengers and freights, respectively, upon the due payment, or tender of payment, of tolls, freight or fare therefor, if such payment is demanded. Every such common carrier shall permit connections to be made and maintained in a reasonable manner with its side tracks to and from any warehouse, elevator or manufactory without reference to its size or capacity; *Provided*, That this shall not be construed so as to require any common carrier to construct or furnish any side track off from its own land; *Provided, further*, That where stations are fifteen miles apart or more, the common carrier, when required to do so by the Commissioners of Railroads, shall construct and maintain a side track for the use of shippers between such stations.

(d) SHALL NOT LIMIT ITS COMMON LAW LIABILITY.] Whenever any property is received by any common carrier subject to the provisions of this act, to be transported from one place to another within this State, it shall be unlawful for such common carrier to limit in any way, except as stated in its classification schedule, hereinafter provided for, its common law liability with reference to such property while in its custody as a common carrier (as hereinbefore mentioned); such liability must include the absolute responsibility of the common carrier for the acts of its agents in relation to such property.

§ 4. SHALL NOT POOL.] That it shall be unlawful for any common carrier subject to the provisions of this act, to enter into any contract, agreement, or combination with any other common carrier or carriers for the division or pooling of business of different or competing railroads, or to divide between them the aggregate or net proceeds of the earnings of such railroads, or any portion thereof; and in case of an agreement for the pooling of their business aforesaid each day of its continuance shall be deemed a separate offense.

§ 5. DISCRIMINATION AND REBATES PROHIBITED.] That if any common carrier, subject to the provisions of this act, shall, directly or indirectly, by any special rate, rebate, draw back, or other device charge, demand, collect or receive from any person or persons a greater or less compensation for any service rendered,

or to be rendered, in the transportation of passengers or property subject to the provisions of this act, than it charges, demands, collects or receives from any other person or persons, for doing for him or them a like and contemporaneous service in the transportation of passengers or property, such common carrier shall be deemed guilty of unjust discrimination, which is hereby prohibited and declared to be unlawful.

§ 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 for the transportation of passengers or of like kind or class and quantity of property for a shorter than for a longer distance over the same line, the shorter being included within the longer distance; but this shall not be construed as authorizing any common carrier, subject to the provisions of this act, to charge or 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 said Commissioners, be authorized to charge less for longer than for shorter distances for the transportation of passengers or property; and the Commissioners may from time to time, prescribe the extent to which such designated common carrier may be relieved from the operation of this section of this act.

§ 7. (a) LONG AND SHORT HAUL.] That it shall be unlawful for any common carrier, subject to the provisions of this act, to charge or receive any greater compensation, per ton per mile for the contemporaneous transportation of the same class of freight for a longer than for a shorter distance over the same line, in the same general direction, or from the same original point of departure, or to the same point of arrival; but this shall not be construed as authorizing any common carrier, subject to the provisions of this act, to charge as high a rate per ton per mile for a longer as for a shorter distance.

(b) UNIFORM DISTRIBUTION OF CARS—COMMISSIONERS TO ESTABLISH AND PUBLISH RULES.] The Railroad Commissioners shall on or before August 1st of each year adopt a system of uniform rules which they may change from time to time as found necessary, governing the distribution of cars to be loaded, among applicants at stations and side tracks on all railroads in this State, and they shall serve a copy of such rules upon all railroad superintendents in this State, which shall be sufficient notice to such railroad company, and said rules shall have all the force and effect of an order under the provisions of this act, and the disregard of the requirements or refusal to obey the requirements of such rules shall subject, and make liable said common carrier to the pains and penalties made and provided in such case. The Railroad Commissioners shall publish said rules in one newspaper in each county having a railroad station within its limits, as elsewhere provided in this act for the publishing of rates, and shall also

cause a copy of said rules to be posted in some public place at each station and side track for the information of shippers. If any railroad company shall refuse or neglect to furnish cars as provided in the rules aforesaid at any station or side track, complaint having been made to the Railroad Commissioners or any one of them, it shall be their duty to immediately enquire into the cause of such delay in furnishing the cars demanded, and if they find just cause for complaint they are empowered and required to make such orders and rules as they may deem to be right and just to all parties concerned, the same to be enforced as other orders and rules are enforced under the provisions of this act; *Provided*, All railroad corporations, in case of a shortage of cars, shall be required to furnish at all times each branch or division of its road, its just proportion of cars required for the transportation of freight according to the amount offered for shipment on each branch or division.

(c) BUT ONE TERMINAL CHARGE FOR SWITCHING OR TRANSFERRING.] There shall in no case be more than one terminal charge for switching or transferring any car, whether the same is loaded or empty, within the limits of any one city or town. If it is necessary that any car pass over the tracks of more than one company, within such city or town limits, in order to reach its final destination, or to be returned therefrom to its owner or owners, then the company first switching or transferring such car shall be entitled to receive the entire charge to be made therefor, and shall be liable to the company or companies doing the subsequent switching or transferring thereof for its or their reasonable and equitable share of the compensation received, and if the companies so jointly interested therein cannot agree upon the share thereof which each is entitled to receive, the same shall be determined by the Commissioners of Railroads, whose decision thereon shall be final and conclusive upon all parties interested, and the said Commissioners are authorized to establish such rules and regulations in that behalf as to them may seem just and reasonable and not in conflict with this act.

§ 8. (a) SHALL PRINT AND KEEP FOR INSPECTION SCHEDULES.] That every common carrier subject to the provisions of this act, shall within sixty days after this act shall take effect, print and thereafter keep for public inspection, schedules showing the classification, rates, fares and charges for the transportation of passengers and property of all kinds and classes which such common carrier has established, and which are in force at the time, upon its railroad, as defined by the first section of this act. This schedule printed as aforesaid by such common carrier shall plainly state the places upon its railroad between which property and passengers will be carried, and shall contain "classification of freight" in force upon each of the lines of such railroad, a distance tariff, and a table of interstation distances, and shall also state separately the terminal charges, and any rules or regulations

which in anywise change, affect or determine any part of the aggregate of such aforesaid rates, fares and charges. Such schedules shall be plainly printed in large type, and copies, for the use of the public, shall be kept in every depot or station upon any such railroad, in such places and in such form that they can be conveniently inspected.

(b) TEN DAYS' NOTICE TO BE GIVEN OF CHANGES IN SCHEDULE.] No change or classification shall be made, and no change shall be made in the rates, fares and charges, which have been established and published as aforesaid, by any common carrier, in compliance with the requirements of this section, without the order or by the authority of the Railroad Commissioners except after ten days' public notice, which notice shall plainly state the changes proposed to be made in the schedules then in force, and the time when the changed schedules will go into effect, and the proposed changes will be shown by printing new schedules, or shall be plainly indicated upon the schedules in force at the time and kept for public inspection.

(c) UNLAWFUL TO CHARGE MORE THAN SPECIFIED IN SCHEDULE.] And when any common carrier shall have established and published its classifications, rates, fares and charges in compliance with the provisions of this section, it shall be unlawful for such common carrier to charge, demand, collect or receive from any person or persons a greater or less compensation for the transportation of passengers or property or for any service in connection therewith, than is specified in such published schedule of classifications, rates, fares and charges as may at the time be in force.

(d) SCHEDULES TO BE FILED.] Every common carrier, subject to the provisions of this act, shall file with the Commissioners of Railroads copies of its schedules of classifications, rates, fares, and charges which have been established and published in compliance with the requirements of this section, and shall promptly notify said Commissioners of all changes proposed to be made in the same. Every such common carrier shall also file with said Commissioners copies of all contracts, agreements or arrangements with other common carriers in relation to any traffic affected by the provisions of this act, to which contracts, agreements or arrangements it may be a party. And in cases where passengers or freight pass over lines or routes operated by more than one common carrier, and the several common carriers operating such lines or routes, establish joint schedules of rates or fares, or charges or classifications, for such lines or routes, copies of such joint schedules shall also, in like manner be filed with said Commissioners. Such joint schedules of rates, fares, charges and classifications, for such lines, so filed as aforesaid, shall also be made public by such common carriers in the same manner as hereinbefore provided for the publication of tariffs upon its own lines.

(e) COMMISSIONERS SHALL HAVE POWER 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. To which end the Commissioners shall, in writing, inform such common carrier in what respects such tariff of rates, charges, or classifications or unequal and unreasonable, and shall recommend what tariff shall be substituted therefor.

(f) IN CASE OF REFUSAL TO CHANGE TARIFF, COMMISSION SHALL PUBLISH SAME—RATES FIXED BY COMMISSION TO STAND AFTER TEN DAYS.] In case such common carrier shall neglect or refuse for ten days after such notice to substitute such tariff of rates, fares and charges or classifications, or to adopt the same as recommended 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 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 recommended by the Commission are to take effect. 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 road 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 recommended 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 notice in writing required by subdivision "e" of this section without regard to the publication authorized by this "f" subdivision; and after the expiration of ten days from the service of such notice in writing 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.

(g) PENALTY FOR REFUSING TO PUBLISH OR FILE SCHEDULES, ETC.] 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 carry out such recommendation made and published 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 recommendation 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 recommendations of said Commissioners, and for any willful violation or failure to comply with such requirements or such recommendations 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.

(h) APPEALS FROM ORDERS OF COMMISSIONERS—POWERS OF COURTS TO AMEND OR MODIFY ORDERS APPEALED FROM.] Any common carrier subject to the provisions of this act, may appeal to any district court of this State from any order made by said Commissioners regulating or fixing its tariffs of rates, fares, charges or classifications, or from any other order made by said Commissioners under the provisions of this act, by serving a notice in writing upon the secretary of said Commissioners, or any one of said Commissioners within sixty days after such common carrier shall have received written notice from said Commissioners of the making of such order. If the order appealed from does not regulate or fix the common carrier's tariffs of rates, fares or charges, the district court to which the appeal is taken may in its discretion suspend the operation and effect of the order appealed from, pending such appeal. The district courts of this State shall be deemed to be always in session for the purpose of hearing and determining all appeals taken under the provisions of this act. The common carrier taking such appeal may bring the same on for hearing and determination at any time after taking such appeal, upon serving a notice to that effect upon any one of the Commissioners or upon their secretary at least sixty days prior to the day set for such hearing. The district court shall, upon the hearing of such appeal, receive and consider such evidence as may be adduced by either party, and shall rescind, modify or alter said order appealed from in such manner as may be equitable and just. Either party may appeal from the decision of the district court to the Supreme Court of this State by serving a notice of such appeal upon the opposite party. For the purpose of hearing such appeals, the Supreme Court shall always be in session and appeals to it may be heard summarily by either party's serving upon the other a notice of hearing, at least fifteen days before the day fixed for such hearing. When evidence has been taken before the district court, such evidence may be signed by the judges of said district court, the party presenting such evidence to said judges for signature, giving the other party five days' notice of the time and place of such presentation. The evidence signed as aforesaid, shall become part of the record in the case and upon an appeal to the Supreme Court being taken as hereinbefore mentioned, shall be transmitted by the clerk of the district court, to the Supreme Court, together with all the records and files in the



case. The Supreme Court may reverse, affirm or modify the decision of the district court as may seem equitable and just.

§ 9. ATTORNEY GENERAL EX-OFFICIO ATTORNEY FOR COMMISSIONERS.] The Attorney General of the State of North Dakota shall be *ex-officio* attorney for the Commissioners of Railroads 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 Commissioners of Railroads may deem it proper and expedient to prosecute; and he shall render such Commissioners of Railroads all counsel, advice and assistance necessary to carry out the provisions of this act, or of any law of this State, according to the true intent and meaning thereof. It shall likewise be the duty of the district attorney of any county in which suit is instituted or prosecuted, to aid in the prosecution of the same to a final issue upon the request of such Commissioners. Said Commissioners are hereby authorized at the request of the Attorney General to employ such additional legal counsel as he may think proper, to assist in the prosecution of any suit they may determine to bring under the provisions of this act, or of any law of this State.

§ 10. (a) POWERS AND DUTIES OF COMMISSIONERS.] That the Commissioners of Railroads shall have authority to inquire into the management of the business of all common carriers, subject to the provisions of this act, and shall keep itself informed as to the manner and method in which the same is conducted, and shall have the right to obtain from such common carriers full and complete information, necessary to enable the Commissioners to perform the duties and carry out the objects for which they were created; in order to enable said Commissioners efficiently to perform their duties under this act, it is hereby made their duty to cause one of their number to visit the various stations on the lines of each railroad as often as practicable after having given twenty days' notice of such visit and the time and place thereof in the local newspapers, and at least once in twelve months to visit each county in the State in which is, or shall be located a railroad station, and personally inquire into the management of such railroad business, and for this purpose, all railroad companies and common carriers, and their officers and employes, are required to aid and furnish each of the commissioners with reasonable and proper facilities and each or all of the said commissioners shall have the right, in his or their official capacity, [to] pass free on any railroad trains on all railroads in this State, and to enter and remain in at all suitable times, any and all cars, offices or depots, on or upon the railroads of any railroad company in this State, in the performance of official duties; and whenever, in the judgment of the commissioners, it shall appear that any common carrier fails in any respect or particular to comply with the laws of this State, or whenever in their judgment any repairs are necessary upon its railroad, or any addition to or

change of its stations or station house is necessary, or any change in the mode of operating its roads or conducting its business is reasonable or expedient in order to promote the security, convenience and accommodation of the public, said Commissioners shall inform such railroad company by a notice thereof in writing to be served as a summons in civil actions required to be served by the statutes of this State in actions against corporations, when certified by the clerk or secretary of the Railroad Commissioners, and if such common carrier shall neglect or refuse to comply with such order, then the Commissioners may, in their discretion, cause suits or proceedings to be instituted to enforce its orders as provided in this act.

§ 11. (a) LIABILITY FOR NEGLIGENCE OF DUTY.] That in case any common carrier, subject to the provisions of this act, shall do, cause to be done, or permit to be done, any act or thing in this act prohibited, or declared to be unlawful, or shall omit to do any act, matter or thing in this act required to be done, such common carrier shall be liable to the person or persons, party or parties injured thereby, for the full amount of damages sustained in consequence of any such violations of the provisions of this act, together with a reasonable counsel or attorney's fees to be fixed by the court in every case of recovery, which attorney's fees shall be taxed and collected as part of the costs in the case.

(b) SUIT MAY BE BROUGHT IN CASE OF DAMAGES.] That any person or persons, party or parties claiming to be damaged by the action or non-action of any common carrier, subject to the provisions of this act, may either make complaint to the Commissioners, as hereinbefore provided for, or may bring suit in his or their own behalf for the recovery of the damages for which such common carrier may be liable under the provisions of this act, in any district court of the State, of competent jurisdiction; but such person or persons shall not have the right to pursue both of said remedies at the same time.

(c) COURT MAY COMPEL OFFICERS TO ATTEND AS WITNESSES.] In any such action brought for the recovery of damages the court before which the same may be pending may compel any director, officer, receiver, trustee or agent of any corporation or company, defendant in such suit, to attend, appear and testify in such case, and may compel the production of the books and papers of such corporation or company, party to any such suit; the claim that any such testimony or evidence may tend to criminate the person giving such evidence shall not excuse such witness from testifying, but such evidence or testimony shall not be used against such person on the trial of any criminal proceeding.

§ 12. PENALTY FOR NON-COMPLIANCE WITH THIS ACT.] That any common carrier, subject to the provisions of this act, or whenever such common carrier is a corporation, any director or officer thereof, or any receiver, trustee, lessee, agent or person acting for, or employed by such corporation, who alone or with any other

corporation, company, person or party, shall willfully do or cause to be done, or shall willfully suffer or permit to be done, any act, matter or thing in this act prohibited or declared to be unlawful, or who shall aid or abet therein, or shall willfully omit or fail to do any act, matter or thing in this act required to be done, or shall cause or willingly suffer or permit any act, matter or thing so directed or required by this act to be done, not to be done, or shall aid and abet therein any such omission, or shall be guilty of any willful infraction of this act, or shall aid or abet therein, shall be deemed guilty of a violation of the provisions of this act and shall, upon conviction thereof in any district court of the State within the jurisdiction of which such offense was committed, be subject to a penalty of not less than \$2,500 or more than \$5,000 for the first offense, and not less than \$5,000 or more more than \$10,000 for each subsequent offense.

§ 13. (a) PERSONS AGGRIEVED MAY APPLY TO COMMISSION BY PETITION.] That any person, firm, corporation or association, or any mercantile, agricultural or manufacturing society, or any body politic or municipal organization, complaining of anything done or omitted to be done by any common carrier subject to the provisions of this act, in contravention of the provisions thereof, may apply to said Commissioners by petition, which shall briefly state the facts.

(b) DUTIES OF COMMISSIONERS UPON SUCH APPLICATION.] Whereupon a statement of the charges thus made shall be forwarded by the Commissioners to such common carrier, who shall be called upon to satisfy the complaint, or to answer the same in writing within a reasonable time to be specified by the Commissioners. If such common carrier within the time specified, shall make reparation for the injury alleged to have been done, said carrier shall be relieved of liability to the complainant only, for the particular violation of the law thus complained of. If such carrier shall not satisfy the complaint within the time specified, or there shall appear to be any reasonable ground for investigating said complaint, it shall be the duty of the Commissioners summarily to investigate the matter complained of, in such manner and by such means as it shall deem proper. No complaint shall at any time be dismissed because of absence of direct damages to the complainant. And for the purposes of this act the Commissioners shall have power to require the attendance of witnesses and the production of all books, papers, contracts, agreements and documents relating to any matter under investigation, and, to that end, may invoke the aid of any of the courts of this State, in requiring the attendance of witnesses and the production of books, papers and documents, under the provisions of this act.

(c) HOW COURTS SHALL PROCEED IN CASE OF REFUSAL TO OBEY SUBPŒNAES.] Any of the district courts of this State, within the jurisdiction of which such injury is carried on, shall, in case of contumacy or refusal to obey a subpœna issued by the Commis-

sioners to any common carrier subject to the provisions of this act, or, when such common carrier is a corporation, to an officer or agent thereof, or to any person connected therewith, if proceedings are instituted in the name of such Commissioners as plaintiffs, issue an order requiring such common carrier, officer or agent, or person to show cause why such contumacy or refusal should not be punished as and for contempt, and if upon the hearing the court finds that the injury is within the jurisdiction of the Commissioners, and that such contumacy or refusal is willful and the same is persisted in, such contumacy or refusal shall be punished as though the same had taken place in an action pending in the district court for any judicial district in this State. The claim that any such testimony or evidence may tend to criminate the person giving such evidence shall not excuse such witness from testifying; but such evidence or testimony shall not be used against such persons on the trial of any criminal proceeding.

§ 14. (a) FINDINGS OF COMMISSIONERS TO BE MADE IN WRITING. ] Whenever an investigation shall be made by said Commissioners, it shall be its duty to make a report in writing in respect thereto, which shall include the findings of fact upon which the conclusions of the Commissioners are based, together with their recommendation as to what reparation, if any, should be made by the common carrier to party or parties who may be found to have been injured; and such findings so made shall thereafter, in all judicial proceedings, be deemed *prima facie* evidence as to each and every fact found. All reports of investigations made by the Commissioners shall be entered of record, and a copy thereof shall be furnished to the party who may have complained, and to any common carrier that may have been complained of, and the record thereof shall [be] public.

(b) IN CASE FINDINGS ARE AGAINST COMMON CARRIER, REPORT MUST BE MADE TO THEM. ] If in any case in which an investigation shall be made by said Commissioners it shall be made to appear to the satisfaction of the Commissioners, either by testimony of witnesses or other evidence, that anything has been done or omitted to be done by any common carrier, in violation of the provisions of this act or to any law cognizable by said Commissioners, or that any injury or damages has been sustained by the party or parties complaining, or by other parties aggrieved in consequence of any such violation, it shall be the duty of the Commissioners to forthwith cause a copy of its report in respect thereto to be delivered to such common carrier, together with a notice to said common carrier to cease and desist from such violation and to make reparation for the injury so found to have been done within a brief but reasonable time, to be specified by the Commissioners; and if within the time specified it shall be made to appear to the Commissioners that such common carrier has ceased from such violation of law, and has made reparation for the injury found to have been done, in compliance with the re-

port and notice of the Commissioners, or to the satisfaction of the party complaining, a statement to that effect shall be entered of record by the Commissioners, and the said common carrier shall thereupon be relieved from further liability or penalty for such particular violation of law.

(c) IN CASE OF NEGLECT TO MAKE REPARATION, COMMISSIONERS TO FORWARD REPORT TO ATTORNEY GENERAL.] But if such common carrier shall neglect or refuse, within the time specified, to desist from such violation of law, and make reparation for the injury done in compliance with the notice and report of the Commissioners as aforesaid, it shall be the duty of the Commissioners to forthwith certify the fact of such neglect or refusal, and forward a copy of its report and such certificate to the Attorney General of the State for redress and punishment as hereinafter provided.

§ 15. (a) ATTORNEY GENERAL TO BRING SUIT.] That it shall be the duty of the Attorney General to whom said Commissioners may forward their report and certificate, as provided in the next preceding section of this act, when it shall appear from such report that any injury or damages has been sustained by any party or parties by reason of such violation of law by such common carrier, to forthwith cause suit to be brought in the district court in the judicial district wherein such violation occurred, on behalf and in the name of the person or persons injured, against such common carrier, for the recovery of damages for such injury as may have been sustained by the injured party; and the cost and expenses of such prosecution shall be paid out of the appropriation hereinafter provided for for the uses and purposes of this act.

(b) POWER OF COURT.] And the said court shall have power to hear and determine the matter on such short notice to the common carrier complained of as the court shall deem reasonable; and such notice shall be served on such common carrier, his or its officers, agents or servants, in such manner as the court shall direct; and said court shall proceed to hear and determine the matter speedily, and without the formal pleading and proceedings applicable to ordinary suits in equity; but in such manner as to do justice in the premises, and to this end such court shall have power, if it thinks fit, to direct and prosecute in such mode and by such persons as it may appoint, all such inquiries as the court may think needful to enable it to form a just judgment in the matter of such petition. And on such hearing the report of said Commissioners shall be *prima facie* evidence of the matters therein stated.

(c) FURTHER POWERS OF COURT—APPEALS TO SUPREME COURT.] And if it be made to appear to such court, on such hearing, or on report of any such person or persons, that the lawful order or requirements of such Commissioners drawn in question, has been violated or disobeyed, it shall be lawful for such court to issue a writ of injunction, or other proper process, mandatory or other-

wise, to restrain such common carrier from further continuing such violation or such disobedience of such order or requirement of said Commissioners, and enjoining obedience to the same; and in case of any disobedience of any such writ of injunction or other proper process, mandatory or otherwise, it shall be lawful for such courts to issue writs of attachment, or any other process of said courts incident or applicable to writs of injunction or other proper process, mandatory or otherwise, against such common carrier; and if a corporation, against one or more of the directors, officers or agents of the same, or against any owner, lessee, trustee, receiver or other person failing to obey such writ of injunction or other proper process, mandatory or otherwise; and said court may, if it shall think fit, make an order directing such common carrier or other person so disobeying such writ of injunction or other proper process, mandatory or otherwise, to pay such sum of money not exceeding [for] each carrier or person in default the sum of five hundred (500) dollars for every day after a day to be named in the order, that such carrier or other person shall fail to obey such injunction or other proper process, mandatory or otherwise; and such monies shall be payable as the court shall direct either to the party complaining, or into court to abide the ultimate decision of the court; and payment thereof may, without prejudice to any other mode of recovering the same, be enforced by attachment or order in the nature of a writ of execution, in like manner as if the same had been recovered by a final decree in *personam* in such court. Each party to such proceeding before said court, may appeal to the Supreme Court of the State, under the same regulations now provided by law in respect to security for such appeal; but such appeal shall not operate to stay or supersede the order of the court or the execution of any writ or process thereon, unless the court hearing or deciding such case should otherwise direct; and such court may, in every such matter, order the payment of such costs and counsel fees as shall be deemed reasonable.

(d) **MAY APPEAL IN CASE SUIT IS NOT COMMENCED IN TEN DAYS.]**  
In case the Attorney General shall not within a period of ten days after the making of any order by the Commissioners, commence judicial proceedings for the enforcement thereof, any railroad company, or other common carrier affected by such order, may at any time within the period of thirty days after the service of it upon him or it of such order, and before commencement of proceedings, appeal therefrom to the district court of any judicial district through or into which his or its route may run, by the service of a written notice of such appeal upon some member of such Commissioners. And upon the taking of such appeal, and the filing of the notice thereof, with the proof of service, in the office of the clerk of such court, there shall be deemed to be pending in such court a civil action of the character and for the purposes mentioned in Sections 11 and 15 of this act. Upon such appeal, and upon the hearing of and application for the enforcement of any such

order made by the Commissioners or by the Attorney General, the court shall have jurisdiction to examine the whole matter in controversy, including matters of fact as well as questions of law, and to affirm, modify or recind such order in whole or in part, as justice may require; no appeal as aforesaid shall stay or supersede the order appealed from and pending the final decision of all appeals to the courts the rates fixed shall remain in full force and effect.

§ 16. (a) COMMISSIONERS MAY PROSECUTE.] That whenever facts, in any manner ascertained by said Commissioners, shall in their judgment warrant a prosecution, it shall be the duty of said Commissioners to immediately cause suit to be instituted and prosecuted against any common carrier who may violate any of the provisions of this act, or of any law of this State. All such prosecutions shall be in the name of the State of North Dakota except as otherwise provided in this act, or in any law of this State, and may be instituted in any county in the State through or into which the line of any common carrier so sued may extend, and all penalties recovered under the provisions of this act, or of any law of this State, in any suit instituted in the name of the State, shall be immediately paid into the State Treasury by the sheriff or other officer or person collecting the same; and the same shall be by the State Treasurer placed to the credit of the general revenue fund.

(b) COURTS ALWAYS IN OPEN SESSION.] For the purpose of this act, except its penal provisions, the district courts and Supreme Court of the State shall be deemed to be always in open session.

§ 17. (a) ANNUAL REPORTS REQUIRED FROM ALL COMMON CARRIERS.] That the Commissioners are hereby directed to require annual reports from all common carriers subject to the provisions of this act, to fix the time and prescribe the manner in which said report shall be made, and to require from such carriers specific answers to all questions upon which the Commissioners may need information. Such annual reports shall show in detail the amount of capital stock issued, the amounts paid therefor, and the manner of payment for the same, the dividends paid, the surplus fund, if any, and the number of stockholders, the funded and floating debts and the interest paid thereon; the cost and value of the carrier's property, franchises and equipment, the number of employes and the salary paid each class, the amounts expended for improvements each year, how expended, and the character of such improvements; the earnings and receipts of each branch of business, and from all sources, the operating, and other expenses; the balance of profit and loss; and complete exhibit of the financial operations of the carrier each year, including an annual balance sheet; also the total number of acres of land received as grants from the United States, the number of acres of said grants sold, and average price received per acre, the number of acres of grants unsold and the appraised value per acre. Such detailed reports

shall also contain such information in relation to rates or regulations concerning fares or freights and agreements, arrangements or contracts with express companies, telegraph companies, sleeping and dining car companies, fast freight lines, and other common carriers, as the Commissioners may require, with copies of such contracts, agreements or arrangements.

§ 18. (a) COMMISSIONERS TO MAKE ANNUAL REPORTS. That such Commissioners shall, on or before the first day of December in each year, and oftener if required by the Governor to do so, make a report to the Governor of their doings for the preceding year, containing such facts, statements and explanations as will disclose the actual working of the system of railroad transportation in its bearings upon the business and prosperity of the people of this State, and such suggestions in relation thereto as to them may seem appropriate.

(b) SHALL MAKE SPECIAL REPORTS BIENNIALLY.] They shall also, at such times as the Governor shall direct, examine any particular subject connected with the conditions and management of such railroads and report to him in writing their opinion thereon, with their reasons therefor. Said Commissioners shall also investigate and consider what, if any, amendment or revision of the railroad laws of this State, the best interests of the State demand, and they shall make a special biennial report on said subject to the Governor. All such reports made to the Governor shall be by him transmitted to the legislature at the earliest practicable time.

(c) PENDING LITIGATIONS NOT TO BE AFFECTED BY THIS ACT.] Nothing in this act contained shall in any way abridge or alter the remedies now existing at common law or by statute, but the provisions of this act are in addition to such remedies; *Provided*, That no pending litigation shall in any way be affected by this act. The decision of a majority of the Commission shall be considered the decision of the board on all questions arising for its consideration. Witnesses summoned before the Commission shall be paid the same fees and mileage that are paid witnesses in the district court of the State. All expenses of the Commission in making an investigation or examinations in any other place than the city of Bismarck, shall be allowed and paid out of the State Treasury on the presentation of itemized vouchers therefor approved by the chairman of the Commission and the State Auditor.

§ 19. REPEAL.] All acts and parts of [acts] conflicting with the provisions of this act are hereby repealed.

§ 20. EMERGENCY.] An emergency existing, in the fact that there is no law in force which properly defines the duties and powers of the board of Railroad Commissioners, this act is intended to remedy that defect; this act shall take effect and be in force from and after its passage and approval.

Approved March 19, 1890.



## CHAPTER 123.

[H. F. 54.]

RAILROADS TO BUILD PLATFORMS TO FACILITATE SHIPMENT OF  
LIVE STOCK, ETC.AN ACT to Facilitate the Shipment of Live Stock, Grain and Other Com-  
modities.*Be it Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. RAILROADS TO BUILD PLATFORMS.] Every railroad company or corporation doing business in this State, shall within sixty days after this act shall go into effect, upon notice from the Commissioners of Railroads, build, erect and complete one or more platforms for the transfer of live stock, grain and other commodities from wagons or otherwise to cars at each and every station designated in said notice; said platform to be erected where there will be safety to life and property.

§ 2. PLATFORMS, HOW BUILT.] Each platform shall be not less than twelve feet wide and thirty-two feet long, extending two feet and eight inches above the rails of the track, with suitable approaches to and from said platform to admit the driving of loaded teams thereon.

§ 3. PENALTY FOR NEGLECT TO BUILD PLATFORMS.] Every railroad company or corporation neglecting or refusing to comply with the requirements of this act after having been properly notified, shall be deemed guilty of a misdemeanor, and be subject to a fine of not less than five hundred (500) dollars for every thirty days such failure shall continue after notice as aforesaid.

§ 4. DUTY OF COMMISSIONERS TO NOTIFY RAILROADS.] Every Commissioner of Railroads who shall fail to notify such railroad company after receiving a petition signed by ten taxpayers residents of the place or its vicinity where such platform is to be erected, shall be deemed guilty of a misdemeanor, and shall be fined not less than one hundred (100) dollars nor more than three hundred (300) dollars for each offense; *Provided*, Said Commissioner of Railroads shall, upon examination, deem such platform or platforms necessary.

§ 5. WHEN PLATFORMS TO BE ENLARGED.] The Commissioners of Railroads shall have power to order an enlargement of such platforms whenever petitioned to that effect, and whenever the capacity of such platform is in their judgment clearly insufficient for the accommodation of the public.

§ 6. PLATFORM SCALES.] Every railroad company shall allow suitable scales to be erected, either upon the platform or upon

the grounds adjacent thereto, if upon their right of way, for weighing and shipping purposes.

§ 7. EMERGENCY.] Whereas, an emergency exists, in that the platform provided for in this bill will be needed before July; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved February 17, 1890.

## CHAPTER 124.

[H. F. 172.]

### REGULATING SHIPMENT OF LIVE STOCK AND GRAIN.

#### 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. BILL OF LADING TO STATE NUMBER OF STOCK.] Whenever any shipper of hogs, cattle, sheep, horses or other animals, shall present his stock at any railroad station, and to any railroad agent in the State of North Dakota, for purposes of transportation, it shall be the duty of said railroad agent to count or cause to be counted said hogs, cattle, sheep, horses or other animals, and the number so counted shall be by the agent named in the bill of lading or receipt for said stock. And if said railroad agent neglect or refuse to count or have counted said stock, then the railroad company employing said agent shall be held responsible for the number of animals specified in the bill of lading according to shipper's count.

§ 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 purpose of 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.

§ 3. RESPONSIBILITY OF RAILROAD COMPANY FOR VIOLATION OF THIS ACT.] Any loss sustained by any shipper from the refusal on the part of any railroad company to conform to the requirements of this act shall be assessed and collected as any other damages and losses are assessed and collected against railroad companies.

Approved February 10, 1890.

## CHAPTER 125.

[H. F. 274.]

### FIXING MAXIMUM RATES FOR TRANSPORTATION OF NORTH DAKOTA COAL.

AN ACT to Fix the Maximum Rates that Railroad Companies May Charge for the Transportation of Coal Mined Within the State of North Dakota.

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

§ 1. MAXIMUM COAL RATES.] All railroad companies doing business as common carriers within the State of North Dakota shall not charge for the transportation of coal mined within the State from any station or siding within the State to any station or siding within the State a greater rate per ton than the following: For the first fifty miles or fractional part thereof, seventy-five (75) cents per ton; for any distance over fifty miles and not to exceed 100 miles, ninety-five (95) cents per ton; for any distance over 100 miles and not to exceed 150 miles, one dollar and fifteen cents (\$1.15) per ton; for any distance over 150 miles and not to exceed 200 miles, one dollar and thirty-five cents (\$1.35) per ton; for any distance over 200 miles and not to exceed 250 miles, one dollar and fifty-five cents (\$1.55) per ton; for any distance over 250 miles and not to exceed 300 miles, one dollar and seventy-five cents (\$1.75) per ton; for any distance over 300 miles and not to exceed 350 miles, one dollar and ninety-five cents (\$1.95) per ton; for any distance over 350 miles and not to exceed 400 miles, two dollars and fifteen cents (\$2.15) per ton.

§ 2. PENALTY FOR FAILURE TO COMPLY WITH ACT.] Any neglect or refusal to carry out any part of the provisions of this act shall subject the railroad company so refusing or neglecting to carry out the provisions of this act, to a fine or penalty of not less than twenty-five (25) dollars per day for each and every day so neglecting or refusing, to be recovered by any person suffering

loss or damage thereby; said forfeiture or penalty may be recovered in any court of competent jurisdiction.

§ 3. ACT TO BE ENFORCED BY RAILROAD COMMISSIONERS.] It shall be the duty of the Commissioners of Railroads to enforce the provisions of this act in the name of the State of North Dakota.

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

§ 5. EMERGENCY.] An emergency existing in that there are no laws now in force for the regulating of railroad freight rates for the transportation of coal mined in the State of North Dakota, this act shall take effect and be in force immediately from and after its passage and approval.

Approved March 3, 1890.

## CHAPTER 126.

[S. F. 43.]

### PROVIDING FOR TRANSFER OF FREIGHT AT CROSSINGS.

AN ACT Entitled "An Act to Provide for the Transfer of Freight at Railroad Crossings and the Maintenance of Depots at the Same."

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

§ 1. DUTY OF RAILROAD COMPANIES TO PROVIDE MEANS OF TRANSFER AT CROSSINGS.] In all cases where any line of railroad shall cross or intersect any other line of railroad in this State, it shall be the duty of the railroad companies owning or operating such intersecting railroad lines within sixty days, as hereinafter required so to do, to provide at such crossing or intersection suitable and sufficient facilities, such as building Y's or other tracks, platforms, warehouses, depots, etc., for transferring cars and for accommodating and transferring passengers and traffic of all kinds and classes from one such line of railroad to another and to afford equal and reasonable facilities for the interchange of cars and traffic between their respective lines.

§ 2. TRANSFER FACILITIES TO BE AFFORDED IF PETITIONED FOR.] Whenever any twenty or more resident freeholders residing within ten miles of the crossing or intersection of any railroad lines shall petition said railroad companies owning or operating said intersecting railroad lines, it shall be the duty of such railroad companies to build, equip and operate within sixty days thereafter the necessary Y's, tracks and switches necessary for the transfer of all kinds and classes of freight by car lots from one such line to the other.

§ 3. WAREHOUSES, DEPOTS, ETC., TO BE BUILT IF PETITIONED FOR.] Whenever any fifty resident freeholders residing within ten miles of any crossing or intersection of any railroad lines shall petition said railroad companies owning or operating said intersecting lines of railroad, it shall be the duty of said railroad companies within sixty days thereafter to build, equip, operate and maintain suitable Y's, tracks, switches and also a suitable warehouse and depot for the accommodation of passengers and of freight of all kinds and classes and the said railroad companies shall maintain an agent there who shall be a telegraph operator, provided with all necessary instruments, wires, etc., necessary for the transacting of business in such manner as the business of other stations on their respective lines is usually transacted.

§ 4. RAILROAD COMPANIES, HOW NOTIFIED.] Upon the presentation of a petition, signed by the requisite number of freeholders, as provided by Sections 2 and 3 of this act, it shall be the duty of the clerk of court of the county in which said railroad crossing or intersection is situated, as mentioned in said petition, to transmit within three days thereafter (upon receipt of fifty (50) cents for filing and one (1) dollar for a certified copy thereof) a certified copy of the said petition to the general manager of each of said intersecting lines of railroad, and the said clerk of the court shall thereupon make a suitable record of the sending of such copies as to time, etc., which record, together with the original petition, shall be *prima facie* evidence in any court of law of such notification to said railroad companies.

§ 5. DUTIES OF RAILROAD COMMISSIONERS IN CASE OF FAILURE TO COMPLY WITH THIS ACT.] If any railroad company or companies to whom such petitions are addressed shall fail to comply with any of the provisions of this act within the time prescribed by Section 1 of this act, any person who may have signed any petition under Sections 2 or 3, may appeal to the Railroad Commissioners by filing with said Railroad Commissioners an affidavit setting forth the fact that said petition has not been granted, and also a certified copy of the original petition; it shall then be the duty of said Railroad Commissioners to condemn all lands necessary for the requirements of the prayer of said petition in such manner as lands are usually condemned for public purposes; *Provided, however,* That said Railroad Commissioners cannot easily obtain the right-of-way or a deed to such lands as may be necessary in building any Y's, tracks, depots or platforms; *Provided, further,* That in all cases where there is room upon the rights of way of any intersecting lines of railroad the Commissioners shall build all tracks, Y's, switches, depots, platforms, etc., thereon immediately proceed to build such tracks, Y's, switches, depots, platforms, etc., as are required by the different sections of this act to be built, and the cost thereof shall immediately thereon become a lien upon the rolling stock, road bed, equipments, earnings, etc.,

of such railroad companies and may be by such Railroad Commissioners collected by law in such case made and provided.

§ 6. ACTIONS AGAINST RAILROAD COMPANIES, HOW BROUGHT.] In all cases where it becomes necessary for the Railroad Commissioners to build any tracks, Y's, switches, depots, platforms, etc., under any of the provisions of this act, and the railroad companies owning or operating any intersecting lines fail to pay for the same within thirty days after being duly notified of and presented with an itemized account of one-half the costs of constructing the same, the said Railroad Commissioners are hereby empowered to present the State Auditor with a verified account in writing of the cost of building of any such tracks, Y's, switches, platforms, etc., and the costs of all lands necessarily condemned or bought in the construction of the same, and the State Auditor shall thereupon draw his warrant upon the State Treasurer for the amount thereof in favor of said Railroad Commissioners. Immediately upon receipt of such warrant it shall be the duty of the Railroad Commissioners to commence an action against all railroad companies interested for the recovery of the costs of the construction of all such Y's, tracks, switches, platforms, depots, etc. Said action shall be in the name of the State as plaintiff, and shall be maintained and prosecuted as all such actions are maintained and prosecuted.

§ 7. TARIFF FOR TRANSFER OF CARS—PENALTY FOR FAILURE TO TRANSFER.] The cost of transferring a car of freight of any kind or class shall be one (1) dollar, and the rate both before and after transfer shall be in accordance with the rate of the respective lines from which and to which such car may be transferred subject to all regulations of law in such cases made and provided; *Provided, however,* That the same rate shall be charged from any point on any railroad to any point on any other railroad that corresponds with the schedule rate of the road first making shipment to a point correspondingly distant on their own line with the costs of transfer added. If any railroad company shall fail to forward any car or other quantity of freight consigned to them and transferred from any other line of railroad within forty-eight hours thereafter, they shall be liable for all damages caused by such delay and a fine of twenty-five (25) dollars per day, upon conviction thereof in any court of competent jurisdiction, for each and every day of such delay.

§ 8. INTERSECTED RAILROADS TO BEAR EQUAL EXPENSE.] The cost of constructing, maintaining and operating all facilities and structures required by the provisions of this act shall be borne equally between the railroad companies owning and operating such intersecting lines.

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

Approved February 12, 1890.

## CHAPTER 127.

[H. F. 158.]

## REQUIRING RAILROAD COMPANIES TO KEEP CROSSINGS IN REPAIR.

## AN ACT Requiring Railway Companies to Build and keep in Repair Highway Crossings.

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

§ 1. SHALL BUILD AND KEEP IN REPAIR GOOD CROSSINGS.] That all railway companies operating a line or lines of railways in this State, shall build or cause to be built and kept in repair, good and sufficient crossings over such line or lines of railway at all points where any public highway in use is now or may hereafter be intersected by such lines of railway.

§ 2. CROSSING DEFINED—HOW CONSTRUCTED.] A good and sufficient crossing as required to be built and kept in repair as demonstrated in Section 1 of this act, shall be, and is hereby construed to be as follows, to-wit:

First. Of a grade of earth on one or both sides of the railroad track, as the location may require, a grade or grades of earth twenty feet in width, the middle point of which shall be as near as practicable at the middle point of the highway, and such grade shall be of such shape as shall be necessary for the safety and convenience of the traveling public.

Second. That plank shall be firmly spiked on and for the full length of the ties used in the road bed of such railway, where such crossing occurs, and such plank, when so laid, shall be no more than one inch apart, except where the rails prevent, in which the plank next inside of such rail shall be no more than two and one-half inches from the inside surface of such rail, and the thickness of the plank so used shall be three inches and so laid that the upper surface of the plank shall be on a level with the upper surface of the rail, and all such plank shall extend along such railway twenty feet in width of such highway grade, and all plank so laid shall not be removed or taken up for any greater length of time than is necessary for the repairs or replacing of such crossing.

§ 3. NOTICE TO BE SERVED.] It shall be the duty of the officer or officers having charge of any public highway intersected by any line of railway to serve a written notice upon the nearest station agent or superintendent having charge of that portion of the railway where such intersection occurs, that such crossing as herein described shall be built or repaired.

§ 4. CROSSINGS TO BE BUILT WITHIN THIRTY DAYS.] It shall be

the duty of any railway company so receiving such notice; to build or cause to be built a good and sufficient crossing, as described in Section 2 of this act, within a period of thirty days from and after receiving such notice.

§ 5. LIABILITY FOR DAMAGES FOR NEGLIGENCE.] Any railroad company which shall neglect to comply with the terms of this act, shall be liable to pay damage to the county, city, village or town in which the highway is situated, the sum of thirty (30) dollars for such neglect. The same to be recovered in an action brought in the name of the county, city, village or town, as the case may be. It is hereby made the duty of the state's attorney to prosecute to judgment any claim arising under the foregoing provision, without charge to the said county, city, village or town for attorney's fees.

§ 6. That all acts or parts of acts conflicting with this act are hereby repealed.

Approved March 3, 1890.

## CHAPTER 128.

[H. F. 238.]

### RAILROADS TO PUT IN SIDETRACKS ADJOINING COAL MINES.

AN ACT Compelling Railroad Companies to put in Sidetracks Adjacent to Coal Mines in the State of North Dakota.

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

§ 1. SIDETRACKS ADJACENT TO COAL MINES, WHEN TO BE BUILT.] Whenever any person, persons or corporations owning or operating any coal mine or mines within the State of North Dakota from which mine or mines not less than fifty cars of coal have been shipped from any one station over any portion of any railroad within the limits of the State of North Dakota shall petition any such railroad company to build a sidetrack or spur at least 300 feet in length adjacent to said mine or mines, it shall then be the duty of such railroad company to build, equip and operate such sidetrack or spur; *Providing*, Such spur is not nearer than two miles from any station already in operation; *Provided, further*, That any person, company or corporation opening a coal mine within two miles of any station may petition for a sidetrack or spur, and by executing an indemnity bond in favor of said railroad company in the sum of \$2,000, conditioned on the agreement that said person, company or corporation will ship within one year after the completion of such spur or sidetrack, not less than 100



car loads of coal, and when such bond is duly executed with two sureties, approved by the county judge of the county wherein such sidetrack is situated or attached for judicial purposes, the said railroad company shall within sixty days build, equip and operate such sidetrack or spur as provided for in this section. And the Commissioners of Railroads shall have power to locate said sidetrack or spur and order them properly provided with platforms and other conveniences for loading coal and other commodities thereat.

§ 2. PENALTY.] Any neglect or refusal to comply with any part of the provisions of this act within fifteen days after being requested in writing by the parties or party operating the coal mine, or by any one of the board of Commissioners of Railroads to put in said sidetrack shall subject said railroad company to a forfeiture of fifty (50) dollars per day for each and every day said railroad company shall neglect or refuse to comply with the provisions of this act, to be recovered by the party or parties affected by said neglect or refusal; said forfeiture or penalty may be recovered in any court of competent jurisdiction in this State; *Provided*, No railroad shall be compelled to put in a sidetrack where it cannot be done without grading, between the fifteenth day of November and the fifteenth day of May of any year.

§ 3. RAILROAD COMMISSIONERS TO ENFORCE THIS LAW.] The Commissioners of Railroads of this State shall enforce the provisions of this act in the name of the State of North Dakota.

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

§ 5. EMERGENCY.] An emergency existing in that there is no law now in force for the compelling of railroads to put in side tracks adjacent to coal mines, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 3, 1890.

## CHAPTER 129.

[S. F. 6.]

## RELATING TO TRANSFER OF BONDS FROM ONE COMPANY TO ANOTHER.

AN ACT Authorizing Railroad Companies to Take, Acquire, Purchase, Sell or Guarantee the Payment of the Bonds and Other Securities of any Other Railroad Company.

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

§ 1. TRANSFER OF RAILROAD SECURITIES.] Any railroad corporation, whether chartered by or organized under, the laws of this State, or of the Territory of Dakota, or of the United States, or of any other state or territory, may take, purchase, hold, sell and dispose of, or guarantee the payment of the bonds and securities of any other railroad corporation whose line of road is continuous of, or, by lease, traffic contract or otherwise connected with its own line.

Approved March 3, 1890.

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CHAPTER 130.

[S. F. 82.]

## RIGHT-OF-WAY MAPS TO BE FILED.

AN ACT to Require all Railroad Corporations Doing Business in the State of North Dakota to File with the County Clerk of any County in Which any Railroad or Part Thereof May be located, a Map Showing all Railroad and Right of Way Owned by said Corporation.

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

§ 1. RAILROADS, TO SECURE AND FILE MAPS OF RIGHT OF WAY.] That all railroad corporations now doing business in the State of North Dakota shall file, within ninety days after the passage of this act, with the county clerk of any county, in which any railroad or part thereof may be located, a map showing the correct location of any and all right of way lines of railroad and side-tracks in said county, owned or occupied by said railroad corpora-

tions or any of them, also showing the number of acres in each parcel of land included by said railroad corporation or any of them in said county as right of way.

§ 2. SAME.] That any railroad corporation who may hereafter acquire any right of way or other property, as set forth in Section 1 of this act shall file, within six months after the location of their right of way a map as provided for in Section 1 of this act.

§ 3. PENALTY.] Any railroad corporation which shall violate any of the provisions of this act shall, upon conviction thereof in any court of competent jurisdiction, be fined in a sum of not less than one hundred (100) dollars nor more than five hundred (500) dollars.

Approved March 8, 1890.

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## REPORTS.

### CHAPTER 131.

[S. F. 180.]

#### QUARTERLY REPORTS OF COUNTY OFFICERS TO BE PUBLISHED.

AN ACT to Amend Chapter 48 of the Session Laws of 1889, Entitled "An Act to Amend Section 103 of Chapter 28 of the Political Code," Relating to Publication of Receipts and Disbursements of County Treasurers.

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

§ 1. QUARTERLY REPORTS OF COUNTY OFFICERS TO BE PUBLISHED.] That Section 103 of Chapter 28 of the Political Code be and is hereby amended to read as follows: "The county clerk or auditor and county treasurer conjointly shall make out quarterly a detailed exhibit under oath, showing the receipts and disbursements of the county for the preceding quarter and also the assets and liabilities at the time of making out the same; said exhibit shall show the amount of all orders on the treasury issued during the quarter next preceding, on what account, and also the liabilities of the county, stated in detail, and the assets of every kind as near as may be, showing also the amounts of funds in the treasury at the time of making said exhibit, on what account paid in, the kind of funds and the place or places where said funds are deposited. Said exhibit shall be made out quarterly, and posted up in the office of the treasurer on the first Monday in March, June, September and December of each year, and said statement shall

also be published within ten days thereafter in any official newspaper of said county; *Provided*, That where one of the official newspapers of a county publishes both a daily and a weekly edition, such statements shall be published in said paper; *Provided*, The expense of publishing said statements in both editions of said newspaper shall be no greater than if published in a single edition only."

Approved March 20, 1890.

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## REVENUE AND TAXATION.

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### CHAPTER 132.

[H. F. 14.]

#### ASSESSMENT, LEVY AND COLLECTION OF TAXES.

AN ACT Entitled "An Act Prescribing the Mode of Making Assessment, 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. DEFINITIONS OF TERMS USED IN THIS ACT.] The word "money" or "monies" wherever used in this act shall be held to mean gold and silver coin, treasury notes, bank notes, and every deposit which any person owning the same or holding in trust and residing in this State is entitled to withdraw on money or demand; the term "credits," wherever used in this act, shall be held to mean and include every claim and demand for money or other valuable things, and every annuity or sum of money receivable at stated periods, due, or to become due and all claims and demands secured by deeds, or mortgage due or to become due. The terms "tract" or "lot" and piece or parcel of real property, and "piece or parcel of land," wherever used in this act shall each be held to mean any contiguous quantity of land in the possession, owned by, or recorded as the property of the same claimant, person or company; every word importing the singular number only may be extended to and embrace the plural number; and every word importing the plural may be applied and limited to the singular number; and every word importing the masculine gender only may be extended and applied to females as well as males; wherever the word "oath" is used in this act, it may be held to mean affirmation; and the word "swear" in this act may be held to mean affirm;

the words "town" or "district" wherever used in this act, shall be construed to mean township, village, city or ward, as the case may be. The term "true and full value," wherever used in this act, shall be construed to mean the usual selling price at the place where the property to which the term is applied shall be at the time of the assessment, being the price at which it could be obtained therefor at private sale, and not at forced auction or sale. The term "person," wherever used in this act, shall be construed to include firm, company or corporation.

§ 2. PROPERTY SUBJECT TO TAXATION.] All real and personal property in this State, and all personal property of persons residing therein, and the property of corporations, now existing or hereafter created, and the property of all banks or banking companies now existing or hereafter created, except such as is hereinafter expressly excepted is subject to taxation; and such property, or the value thereof, shall be entered in the list of taxable property for that purpose, in the manner prescribed by this act; *Provided*, That railroad companies shall be taxed in such manner as now is, or may be hereafter, fixed by law.

§ 3. REAL PROPERTY DEFINED.] Real property, for the purpose of taxation, shall be construed to include the land itself, whether laid out in town lots or otherwise, and all buildings, structures and improvements (except plowing, trees or other fixtures of whatsoever kind thereon) and all rights and privileges thereto belonging or in any wise appertaining, and all mines, minerals, quarries in and under the same.

§ 4. PERSONAL PROPERTY DEFINED.] Personal property shall, for the purpose of taxation, be construed to include all goods, chattels, monies, credits and effects, wheresoever they may be; all ships, boats and vessels belonging to the inhabitants of this State, whether at home or abroad, and all capital invested therein; all monies at interest, whether within or without this State, due the person to be taxed, and all other debts due such persons; all public stocks and securities; all stock in turnpikes, railroads, canals and other corporations, except national banks out of the State, owned by the inhabitants of this State; all personal estate of moneyed corporations, whether the owners thereof reside in or out of the State, and the income of any annuity, unless the capital of such annuity be taxed within the State; all shares of stock in any bank organized, or that may be organized, under any law of the United States or of this State; and all improvements made by persons upon lands held by them under the laws of the United States, and all such improvements upon lands, the title of which is still vested in any railroad company, or any other corporation whose property is not subject to the same mode and rule of taxation as other property.

§ 5. PROPERTY EXEMPT FROM TAXATION.] 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 for 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 offices, 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, together with the land actually occupied by such institutions, not leased or otherwise used with a view to profit; and all monies 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. 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.

Eighth. 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.

Ninth. All public libraries and real and personal property belonging to or connected with the same.

§ 6. LISTING OF REAL AND PERSONAL PROPERTY.] All real property in this State subject to taxation shall be listed and assessed every even numbered year, with reference to its value, on the first day of May preceding the assessment, and all real estate becoming taxable any intervening year shall be listed and assessed with reference to its value on the first day of May of that year.

§ 7. MANNER OF LISTING PROPERTY.] Personal property shall be listed in the manner following:

First. Every person of full age and sound mind, being a resident of this state, shall list all his monies, credits, bonds or stock shares, or stock of joint or other companies (when the property of such company is not assessed in this state,) monies loaned or invested, annuities, franchises, royalties, and other personal property.

Second. He shall also list separately and in the name of his principal all monies and other personal property invested, loaned or otherwise controlled by him as the agent or attorney, or on account of any other person or persons, company or corporation whatsoever; and all monies deposited subject to his order, draft or check, and credits due from or owing to any person or persons, body corporate or politic.

Third. The property of a minor child shall be listed by his guardian or by the person having such property in charge.

Fourth. The property of an idiot or lunatic, by the person having charge of such property.

Fifth. The property of a person for whose benefit it is held in trust by the trustee of the estate of a deceased person, by the executor or administrator.

Sixth. The property of corporations whose assets are in the hands of receivers, by such receivers.

Seventh. The property of a body politic or corporate, by the president or proper agent or officer thereof.

Eighth. The property of a firm or company, by a partner or agent thereof.

Ninth. The property of manufacturers and others in the care of an agent, by such agent in the name of his principal, as merchandise. Personal property shall be listed and assessed annually with reference to its value, on the first day of May.

§ 8. PLACE OF LISTING PERSONAL PROPERTY.] Personal property, except such as is required in this act to be listed and assessed otherwise, shall be listed and assessed in the county, town or district where the owner or agent resides; the capital stock and franchises of corporations and persons, except as may be otherwise provided, shall be listed in the county, town or district where the principal office or place of business of such corporation or person is located in this State; if there be no principal office or place of business in this State where any such corporation or persons transact business, then personal property pertaining to the business of a merchant or manufacturer shall be listed in the town or district where his business is carried on.

§ 9. PROPERTY OF TRANSPORTATION COMPANIES, ETC.—WHERE TO BE LISTED.] The personal property of express, transportation and stage companies shall be listed and assessed in the county, town or district where the same is usually kept. All persons, companies and corporations in this State owning steamboats, sailing vessels, wharf boats, barges and other water crafts shall be required to list the same for assessment and taxation in the county, town or district in which the same may belong, or be enrolled, registered or licensed, or kept not enrolled, registered or licensed.

§ 10. OF GAS AND WATER, TELEGRAPH AND TELEPHONE COMPANIES—WHERE LISTED.] The personal property of gas and water companies shall be listed in the town where the principal works are located; gas and water mains and pipes laid in roads, streets

or alleys shall be held to be personal property. All personal property of telegraph and telephone companies, including poles, wires, instruments, office fixtures, and all other apparatus used in conducting their business shall be listed and assessed in the county, town or district in which the same is situated.

§ 11. OF STREET RAILWAY COMPANIES—WHERE LISTED, ETC. ] The personal property of street railroad, plank road, gravel road, turnpike or bridge companies shall be listed and assessed in the county, town or district where the principal place of business is located; and the track, road or bridge shall be held to be personal property.

§ 12. NON-RESIDENT'S FARM PROPERTY—WHERE LISTED. ] Where the owner of live stock or other personal property connected with a farm does not reside thereon, the same shall be listed and assessed in the town or district where the farm is situated.

§ 13. PERSONAL PROPERTY MOVED BETWEEN MAY AND JULY—WHERE LISTED. ] The owner of personal property moving from one county, town or district to another, between the first day of May and the first day of July, shall be assessed in either in which he is first called upon by the assessor. The owner of personal property moving into this State from another state or territory between the first day of May and the first day of July, shall list the property owned by him on the first day of May of such year, in the county, town or district in which he resides; *Provided*, If such person has been assessed and can make it appear to the assessor that he is held for tax of the current year on the property in another territory or state, county, town or district, he shall not be again assessed for such year.

§ 14. PLACE OF LISTING—HOW DECIDED AND IN CASE OF DOUBT. ] In all questions that may arise under this act as to the proper place to list personal property, or where the same cannot be listed as stated in this act, if between several places in the same county, the place for listing and assessing shall be determined and fixed by the county board; and when between different counties, or places in different counties, by the Auditor of the State; and when fixed in either case shall be binding as if fixed by this act.

§ 15. LIST OF PERSONAL PROPERTY TO BE MADE UNDER OATH. ] Every person required by this act to list property, shall make out and deliver to the assessor, when required, a statement verified by oath, of all the personal property in his possession or under his control, and which, by the provisions of this act, he is required to list for taxation, either as owner or holder thereof, or as a guardian, parent, husband, trustee, executor, administrator, receiver, accounting officer, partner, agent or factor; but no person shall be required to include in his statement any share or portion of the capital stock or property of any company or corporation, which such company is required to list or return as its capital and property for taxation in this State.



§ 16. VALUATION TO BE FIXED BY ASSESSOR—ITEM OF LIST. ]  
It shall be the duty of the assessor to determine and fix the true and full value of all items of personal property included in such statement, and enter the same opposite such items respectively, so that, when completed, such statement shall truly and distinctly set forth:

First. The number of horses under three years old, and three years old and over, and the value thereof.

Second. The number of cattle under two years old; the number of cows two years old and over; the number of all other cattle two years old and over, and the value thereof.

Third. The number of mules and asses of all ages and the value thereof.

Fourth. The number of sheep of all ages and the value thereof.

Fifth. The number of hogs of all ages and the value thereof.

Sixth. The number of wagons and carriages of whatsoever kind and value thereof.

Seventh. The number of melodeons and organs, and the value thereof.

Eighth. The number of pianofortes, and value thereof.

Ninth. The value of household furniture.

Tenth. The value of agricultural tools, implements and machinery.

Eleventh. The value of gold and silver plate and plated ware.

Twelfth. The value of diamonds and jewelry.

Thirteenth. The value and description of every franchise, annuity, royalty and patent right.

Fourteenth. The value of every steamboat, sailing vessel, wharf boat, barge or other water craft.

Fifteenth. The value of goods and merchandise which such person is required to list as a merchant.

Sixteenth. The value of materials and manufactured articles which such person is required to list as a manufacturer.

Seventeenth. The value of manufacturers' tools, and implements and machinery, including engines and boilers.

Eighteenth. The amount of monies of banks (other than those whose capital is represented by shares of stock), bankers, brokers or stock jobbers.

Nineteenth. The amount of credits of banks (other than those whose capital is represented by shares of stock), bankers, brokers or stock jobbers.

Twentieth. The amount of monies other than of banks, bankers, brokers, or stock jobbers.

Twenty-first. The amount of credits other than of banks, bankers, brokers and stock jobbers.

Twenty-second. The amount and value of bonds and stocks, other than bank stock.

Twenty-third. The amount and value of shares of bank stock.

Twenty-fourth. The amount and value of shares of capital stock of companies and associations not incorporated by the laws of the State.

Twenty-fifth. The value of stock and furniture of sample rooms and eating houses, including billiard table or other similar tables.

Twenty-sixth. The value of all other articles of personal property, not included in the preceding twenty-five items.

Twenty-seventh. The value of all elevators, warehouses, and grain therein, and improvements on lands, the title of which is vested in any railroad company.

Twenty-eighth. The value of all improvements, except plowing, on lands held under the law of the United States.

§ 17. EXAMINATION UNDER OATH BY ASSESSOR—REFUSAL TO ANSWER.] Whenever the assessor shall be of opinion that the person listing property for himself or for another person, company or corporation, has not made a full, fair and complete list of such property, he may examine such person under oath in regard to the amount of property he is required to list; and if such person shall refuse to answer under oath and a full discovery make, the assessor may list the property of such person or his principal, according to his best judgment and information.

§ 18. CREDITS, HOW LISTED AND ASSESSED.] Any person who is required to list credits, either for himself or for any other person, firm or corporation, may deduct from the gross amount thereof the amount of all *bona fide* indebtedness of himself or of any such person, firm or corporation; but no acknowledgement of indebtedness not founded on actual consideration to the full amount of such acknowledgement at the time when the same was given, and no acknowledgement made for the purpose of being so deducted, shall be considered a debt in the meaning of this section, and every person so claiming any deductions shall furnish the assessor with a list containing: First. The amount of all book accounts. Second. The amount of all notes due to him, and also a list of the amount of all book accounts owing by him, and of the amount of all notes owing by him and he shall be required to verify the same by oath administered by the assessor. Nothing in this section shall be so construed as to apply to any bank, banker or corporation exercising banking powers or privileges; *Provided, however,* That any person, company or corporation in making up the amount of personal property required to be listed for himself, company or corporations shall be allowed to deduct from the gross amount thereof any indebtedness of himself, company or corporation, if the same be owned or held within this State; *Provided, further,* That grain held by the producer of the same, actually sold or contracted to be sold, but not delivered, shall be classed as credits.

§ 19. WHAT ARE PROPER DEDUCTIONS—VERIFICATIONS OF DEDUCTIONS.] No person, company or corporation shall be entitled to any deductions on account of any bond, note or obligation of any

kind given to any mutual insurance company, nor on account of any unpaid subscription to or installment payable on the capital stock of any company, whether incorporated or unincorporated; and in all cases where deductions are claimed from credits, the assessor shall require that such deductions be verified by oath of the person, officer or agent claiming the same; and any such person officer or agent knowingly or willfully making a fraudulent statement of such deductions claimed, so verified by affidavit, shall be liable to a fine of not less than one hundred (100) dollars nor more than \$1,000 in addition to all damages sustained by the State, county or other local corporation, to be recovered in any proper form of action in any court of competent jurisdiction, in the name of the State of North Dakota.

§ 20. WHO ARE DEEMED TO BE MERCHANTS—PROPERTY CON-SIGNED—NURSERY STOCK.] Whoever owns or has in his possession or subject to his control, any goods, merchandise, grain or produce of any kind, or other personal property, within this State, with authority to sell the same which has been purchased either in or out of the State with a view to being sold at an advanced price or profit, or which has been consigned to him out of this State, for the purpose of being sold at any place within this State shall be held to be a merchant, and when he is by this act required to make out and deliver to the assessor a statement of his personal property, he shall state the value of such property pertaining to his business as a merchant.

§ 21. WHO ARE DEEMED TO BE MANUFACTURERS—WHAT TO BE LISTED.] Every person who purchases, receives or holds personal property of any description, for the purpose of adding to the value thereof by any process of manufacturing, refining, rectifying, or by the combination of different materials, with a view to making gain or profit by so doing, shall be held to be a manufacturer; and he shall, when required to make and deliver to the assessor a statement of the amount of his other personal property subject to taxation, also include in his statement the value of all articles purchased, received or otherwise held for the purpose of being used, in whole or in part, in any process or operation of manufacturing, combining, rectifying or refining. Every person owning a manufacturing establishment of any kind, and every manufacturer shall list, as part of his manufacturer's stock, the value of all his engines and machinery of every description, used or designed to be used in any process of refining or manufacturing, including all tools and implements of every kind used or designed to be used for the aforesaid purpose, except such fixtures as have been considered as part of any parcel of real property.

§ 22. PROPERTY OF COMPANIES OR ASSOCIATIONS, HOW AND BY WHOM LISTED.] The president, secretary or principal accounting officer of any company or association, whether incorporated or unincorporated, except railroad companies and banking corporations whose taxation is specifically provided for in this act, shall

make out and deliver to the assessor a sworn statement of the amount of its capital stock, setting forth particularly:

First. The name and location of the company and association.

Second. The amount of capital stock authorized and the number of shares into which said capital stock is divided.

Third. The amount of capital stock paid up.

Fourth. The market value, or if they have no market value, then the actual value of the shares of the stock.

Fifth. The total amount of all indebtedness except the indebtedness for current expenses, excluding from such expenses the amount paid for the purchase or improvement of property.

Sixth. The value of all real property, if any.

Seventh. The value of its personal property. The aggregate amount of the fifth, sixth and seventh items shall be deducted from the total amount of the fourth, and the remainder, if any, shall be listed as "bonds or stocks," under subdivision 24 of Section 16 of this act; the real and personal property of each company or association shall be listed and assessed the same as other personal property; in all cases of failure or refusal of any person, officer, company or association to make such return or statement, it shall be the duty of the assessor to make such return or statement from the best information he can obtain.

§ 23. BANKERS, BROKERS AND STOCK JOBBERS, HOW AND WHAT THEY SHALL LIST.] The accounting officer of every bank whose capital is not represented by shares of stock, and every private banker, broker or stock jobber, shall make out and deliver to the assessor, when required to list personal property, a statement which he shall verify by oath, showing:

First. The amount of money on hand or in transit.

Second. The amount of funds in the hands of other banks, brokers or others subject to draft.

Third. The amount of checks or cash items, the amount thereof not being included in either of the preceding items.

Fourth. The amount of bills receivable, discounted or purchased and other credits due or to become due, including accounts receivable, interest accrued but not due, and interest due and unpaid.

Fifth. The amount of bonds and stocks of every kind (except United States bonds) and shares of capital stock of joint stock or other companies or corporations, held as an investment, or in any way representing assets.

Sixth. All property pertaining to said business, other than real estate, which real estate shall be listed and assessed as other real estate is listed and assessed under this act.

Seventh. The amount of all deposits made with them by other parties.

Eighth. The amount of all accounts payable other than current deposit accounts.

The amount of the seventh and eighth items shall be deducted from the aggregate amounts of the first, second, third and fourth items, and the remainder, if any, shall be listed as money under Subdivision 18 of Section 16 of this act. According to the provisions of said Section 16, the amount of the fifth item shall be listed as bonds and stocks under the said Section 16, and the said sixth item shall be listed the same as other similar personal property is listed under this act, except that in the case of savings banks organized under the laws of this State, the amount of the seventh and eighth items above enumerated shall be deducted from the aggregate amount of the first, second, third, fourth, fifth and sixth items also above enumerated, and the remainder, if any, shall be listed as credits according to the provisions of Section 16.

§ 24. BANK STOCK—WHERE AND AT WHAT VALUATION TO BE LISTED.] The stockholders of every bank located in this State, whether such bank has been organized under the banking laws of this State, or of the United States, shall be assessed and taxed on the value of their shares of stock therein in the county, town, district, city or village where such bank or banking association is located, and not elsewhere, whether such stockholders reside in such places or not; such shares shall be listed and assessed annually, with regard to the ownership and value thereof, on the first day of May of each year. To aid the assessor in determining the value of such shares of stock, the accounting officer of every bank shall furnish a statement to the assessor, verified by oath, showing the amount and number of such shares of capital stock of such bank, the amount of its surplus or reserve fund, and the amount of its legal investments in real estate, which real estate shall be assessed and taxed as other real estate is assessed and taxed under this act. The assessor shall deduct the amount of such investments in real estate from the aggregate amount of such capital and surplus fund, and the remainder shall be taken as a basis for the valuation of such shares of stock in the hands of the stockholders, subject to the provisions of law requiring all property to be assessed at its true and full value. The shares of capital stock of national banks not located in this State, held in this State, shall not be required to be listed under this act.

§ 25. BANK TO KEEP AND FURNISH LIST OF STOCKHOLDERS.] In every bank and banking office there shall be kept at all times a full and correct list of the names and residences of the stockholders, owners or parties interested therein, showing the number of shares and amount held, owned or controlled by each party in interest, which statement or list shall be subject to the inspection of the officer authorized to assess property for taxation; and it shall be the duty of the accounting officer or cashier of each bank or banking institution to furnish the assessor with a duplicate copy of such statement, verified by oath, which shall be returned to the county auditor and filed in his office.

§ 26. TAXES ON BANK STOCK TO BE A LIEN ON DIVIDENDS.] To

secure the payment of taxes on bank stock or banking capital, it shall be the duty of every bank, or managing officer or officers thereof, to retain so much of any dividend or dividends belonging to such stockholders or owners as shall be necessary to pay any taxes levied upon their shares of stock or interest, respectively, until it shall be made to appear to such bank or its officers that such taxes have been paid; and any officer, or any such bank who shall pay over or authorize the paying over of any such dividend or a portion thereof, contrary to the provisions of this section shall thereby become liable for such tax; and if the said tax shall not be paid, the county treasurer where said bank is located shall sell such shares or interest to pay the same, like other personal property; and, in case of sale, the provisions of law in regard to the transfer of stock, when sold on execution, shall apply to such sale.

§ 27. CERTAIN PROPERTY HELD TO BELONG TO LESSEE OR EQUITABLE OWNER.] Property held under a lease for a term of three or more years, or a contract for the purchase thereof, belonging to the State, or to any religious, scientific or benevolent society or institution, whether incorporated or unincorporated, or to any railroad company or corporation whose property is not taxed in the same manner as other property, shall be considered for all purposes of taxation as the property of the person so holding the same.

§ 28. ALL PROPERTY TO BE ASSESSED AT FULL VALUE—VALUE, HOW DETERMINED.] All property shall be assessed at its true and full value in money. In determining the true and full value of real and personal property, the assessor shall not adopt a lower or different standard of value, because the same is to serve as a basis of taxation; nor shall he adopt as a criterion of value, the price for which said property would sell at auction or at a forced sale, or in the aggregate with all the property in the town or district; but he shall value each article or description of property by itself, and at such sum or price as he believes the same to be fairly worth in money. In assessing any tract or lot of real property, the value of the land, exclusive of improvements, shall be determined; also the value of all improvements and structures thereon, and the aggregate value of the property including all structures and other improvements, excluding the value of crops growing upon cultivated lands. In valuing any real property upon which there is a coal or other mine or stone or other quarry, the same shall be valued at such a price as such property, including the mine or quarry, would sell at a fair voluntary sale for cash. Money, whether in possession or on deposit, shall be entered in the statement at the full amount thereof. Every credit for a sum certain, payable either in money, property of any kind, labor or services, shall be valued at the full price of the same so payable; if for a specific article or a specific number or quantity of any article of property, or for a certain amount of labor, or for services of any

kind, it shall be valued at the current price of such property, or for such labor or services at the place where payable.

§ 29. COUNTY AUDITOR TO FURNISH BOOKS, ETC.—LIST OF REAL PROPERTY—OF MORTGAGES—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 book 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. 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 March 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.

§ 30. ASSESSOR DISTRICTS, BOUNDARIES OF—VACANCIES, HOW FILLED—FEES—ELIGIBILITY.] All counties or parts of counties in this State not organized into civil townships shall be divided into assessor districts, which shall be the same as the commissioner districts of said county, excluding, organized civil townships, and the assessor thereof shall be elected at the same time that State officers are elected; *Provided*, That any vacancy may be filled by appointment by the county commissioners. Each organized civil township in this State shall constitute an assessor district, and there shall be one assessor elected for each one of said districts annually at the time that other town officers are elected; *Provided*, Any vacancy in township assessor may be filled by appointment by the board of supervisors of said township where vacancy exists; *Provided*, That cities organized under the General Laws of this State shall not be included in the district provided for in this section, but assessors of such cities shall act with the board of county assessors in any of their meetings. All assessors of this State shall receive three (3) dollars per day and no more, for the time actually employed in making and completing said assessment. But not to exceed sixty (60) dollars for assessing any one civil township; *Provided, further*, That no person shall be eligible to be assessor unless he is a voter in the district or township for which he is to be assessor.

§ 31. BOND AND OATH OF ASSESSOR.] Every person elected or appointed to the office of assessor shall, at or before the time of receiving the assessment books, file with the county auditor his bond, payable to the State of North Dakota, with at least two good freeholder sureties, to be approved by the board of township supervisors in counties organized into civil townships and in counties not so organized by the board of county commissioners, in the penal sum of five hundred (500) dollars, conditioned that he will diligently, faithfully and impartially perform the duties enjoined on him by law; and he shall moreover take and subscribe on said bond an oath that he will, according to the best of his judgment, skill and ability, diligently, faithfully and impartially perform all the duties enjoined on him by this act, and if any person so elected or appointed fails to give bond, or fails to take the oath required within the time prescribed, such failure shall be deemed a refusal to serve.

§ 32. ASSESSMENTS — WHEN AND HOW MADE.] The assessor shall perform the duties required of him during the months of May and June of each year, except in cases otherwise provided, and in the following manner, to-wit: He shall actually view, when practicable, and determine the true and full value of each tract or lot of real property listed for taxation, and shall enter the value thereof in one column and the value of all improvements and structures thereon in another column, opposite each description of property, also the total value of the same including improvements and structures. He shall make an alphabetical list of the names of all persons in his town or district liable to assessment of personal property, and require each person to make a correct list and statement of such property according to the prescribed form, which statement and list shall be subscribed and sworn to by the person listing the property; and the assessor shall thereupon determine the value of the property included in such statement, and enter the same in his assessment books opposite the name of the party assessed; and in making such entry in his assessment books he shall give the name and the postoffice address of the party listing the property, and if the party resides in a city, the assessor shall give the street and number, or other brief description of the residence or place of business; *Provided*, That personal property shall be assessed upon view by the assessor at any time within the limits prescribed by the provisions of this act, at its then actual value regardless of any change of ownership prior to the date of such assessment; but if the owner, factor or agent can show by duly authenticated certificate that the property has been lawfully assessed in any other town, city, village or district in this State for that year, then such property shall not be assessed.

§ 33. ASSESSMENT OF REAL PROPERTY MADE EVERY ODD NUMBERED YEAR—IMPROVEMENTS, HOW LISTED.] The assessor shall every odd numbered year, at the time of taking a list of personal



property, also assess all real property situated in his town or district, that may have become subject to taxation since the last previous assessment of property therein, and all new buildings or structures, whether completed or in process of construction, of any kind, of over one hundred (100) dollars in value, the value of which has not been previously added to, or included in the value of the land, on which such structure has been erected, and shall make return thereof to the county auditor, with his return of personal property, showing the tract or lot of real property on which each structure has been erected, and the true value added to such parcel of real property by the erection thereof; and in case of the destruction by fire, flood or otherwise of any building or structure of any kind over one hundred (100) dollars in value, the value of which has been included in the last preceding valuation of land upon which such building or structure stood, the assessor shall determine as near as practicable, how much less such land would sell for at private sale in consequence of such destruction, and make a return thereof to the county auditor.

§ 34. STATEMENT OF PERSONAL PROPERTY TO BE MADE BY OWNERS.] The assessor shall call at the office, place of doing business or residence of each person required by this act to list property and list his name, and shall require such person to make a correct statement of his property in accordance with the provisions of this act; and every person so required shall enter a true and correct statement of such property in the form prescribed, which statement shall be signed and verified by the oath of the person listing the property and delivered to the assessor, who shall thereupon assess the value of such property and enter the same in his books; *Provided*, If any property is listed or assessed on or after the fourth Monday in June and before the return of the assessor's books, the same shall be as legal and binding as if listed and assessed before that time.

§ 35. SICKNESS AND ABSENCE OF OWNER—DUTY OF ASSESSOR.] If any person required by this act to list property be sick or absent when the assessor calls for a list of his property, the assessor shall leave at the office or usual place of business of such person a written or printed notice, requiring such person to make out and leave at the place named by such assessor, on or before some convenient day named therein, the statement or list required by this act, the date of leaving such notice, and the person required to list the property shall be noted by the assessor in his assessment book.

§ 36. REFUSAL TO LIST OR SWEAR TO STATEMENT, DUTY OF ASSESSOR—OATH.] In any case where any person whose duty it is to list personal property for taxation, has refused or neglected to list the same when called on by the assessor for that purpose, or to take and subscribe an oath in regard to the truth of his statement of personal property, or any part thereof when required by the assessor the assessor shall enter opposite the name of such

person in an appropriate column the words: "Refused to list," or "Refused to swear," as the case may be; and in every case where any person required to list property for taxation has been absent or unable by sickness to list the same, the assessor shall enter opposite the name of such person in an appropriate column the words: "Absent" or "sick." The assessor is hereby authorized to administer oaths to all persons who by the provisions of this act are required to swear, or whom he may require to testify in any case; and he may examine, upon oath, any person whom he may suppose to have knowledge of the amount or value of the personal property of any person refusing to list or to verify his list of personal property.

§ 37. NUMBER OR NAME OF SCHOOL DISTRICT TO BE GIVEN WHERE PROPERTY IS ASSESSED.] It shall be the duty of assessors, when assessing personal property, to designate the number or name of the school district in which each person assessed is liable for tax, which designation shall be made by writing the number or name of the district opposite each assessment in a column provided for that purpose in the assessment book. When the personal property of any person is assessable in several school districts, the amount in each shall be assessed separately and the name of the owner placed opposite each amount.

§ 38. FAILURE TO OBTAIN ASSESSMENT—DUTY OF ASSESSOR.] In all cases of failure to obtain a statement of personal property, from any cause, it shall be the duty of the assessor to ascertain the amount and value of such property, and assess the same at such amount as he believes to be the true value thereof. The assessor when requested shall deliver to the person assessed a copy of the statement of property hereinbefore required, showing the valuation of the property so listed, which copy shall be signed by the assessor. The assessor of each district shall, on or before the fourth Monday in June of each year, file with the town or city clerk of each organized town or city, the assessment list or roll for such town or city, where it shall remain subject to the inspection of the residents or property owners of such town or city until the Saturday following.

§ 39. TOWN BOARD OF REVIEW—DUTIES, COMPLAINTS AND GRIEVANCES.] The board of supervisors of each town, the recorder and president of each incorporated village, and the assessor, recorder and mayor of each city (except cities whose charters provide for a board of equalization) shall meet on the fourth Monday of June at the office of the town clerk or recorder, for the purpose of reviewing the assessment of property in each town or district, and they shall immediately proceed to examine, ascertain and see that all taxable property in their town or district has been properly placed upon the list and duly valued by the assessor; and in case any property, real or personal, shall have been omitted by inadvertance or otherwise, it shall be the duty of the said board to place the same upon the list with the true value thereof, and

proceed to correct the assessment, so that each tract or lot of real property, and each article, parcel or class of personal property shall be entered on the assessment list at the true value thereof; but the assessment of the property of any person shall not be raised, until each person shall have been duly notified of the intent of the board so to do, and on the application of any person considering himself aggrieved, they shall review the assessment and correct the same as shall appear to them just; any two of said officers are authorized to act at such meeting, and they may adjourn from day to day until they shall finish the hearing of all cases presented on that day; *Provided*, That they shall complete the equalization within six days. All complaints and grievances of individuals, residents of the town or district, in reference to the assessment of personal property, shall be heard and decided by the town board; *Provided*, That the complaints of non-residents in reference to the assessment of any property, real or personal, and of others in reference to any assessment made after the meeting of the town board of review, shall be heard and determined by the county board.

§ 40. NOTICE OF MEETING OF BOARD OF REVIEW TO BE POSTED. ]  
 The assessor shall cause, at least ten days previous, notice of the time and place of the meeting of the town board of review, by posting notice in at least three public places in each town or district; but the failure to give such notice or hold such meeting shall not vitiate such assessment, except as to the excess of valuation of tax thereon shown to be unjustly made or levied.

§ 41. ASSESSOR'S STATEMENT AND RETURN TO AUDITOR. ] The assessors shall add up and note the amount of each column in their assessment books after making the corrections made by the town board of review. They shall also make in each book, under proper headings, a tabular statement showing the footings of the several columns upon the page, and shall add up and set down, under the respective headings, the total amount of the several columns; and on or before the first Monday of July or within two days thereafter, he shall make return to the county auditor of his assessment books, and deliver therewith the lists and statements of all persons assessed, all of which shall be filed and preserved in the office of the county auditor. Such returns shall be verified by his affidavit, and substantially in the following form:

STATE OF NORTH DAKOTA, }  
 .....COUNTY, } ss.

I,.....assessor of.....do solemnly swear that the book to which this is attached contains a full list of all the real property (or personal property, as the case may be) subject to taxation in.....so far as I have been able to ascertain the same, and that the assessed value set down in the proper column opposite the several kinds and descriptions of property is in each case the true and full value of such property,

to the best of my knowledge and belief, (where the assessment has been corrected by the town board, except as corrected by the town board), and that the footings of the several columns in said book and the tabular statement returned herewith is correct, as I verily believe.

.....

Assessor.

Subscribed and sworn to before me this.....day of .....18....

.....

[ L. s. ] Auditor of.....County.

§ 42. LIST GIVEN TO AUDITOR FOR PERSONS SICK OR ABSENT. ] If any person required to list property for taxation is prevented by sickness or absence from giving to the assessor such statement, such person, or his agent having charge of such property may, at any time before the extension of taxes thereon by the county auditor, make out and deliver to the county auditor a statement of the same as required by this act, and the county auditor in such case shall make an entry thereof and correct the corresponding item or items in the return made by the assessor, as the case may require; but no such statement shall be received by the county auditor from any person who refused or neglected to make oath to his statement when required by the assessor, as provided herein; nor from any person, unless he makes and files with the county auditor an affidavit that he was absent from his town and district without design to avoid the listing of his property, or was prevented by sickness from giving the assessor the required statement when called upon for that purpose.

§ 43. AUDITOR TO EXAMINE ASSESSMENT BOOKS AND HAVE RETURNS CORRECTED. ] The county auditor shall carefully examine the assessment books when returned to him by the assessors, and if he discovers that the assessment of any property has been omitted he shall enter the same upon the proper list and forthwith notify the assessor making such omission, who shall immediately proceed to ascertain the value of such property and make the necessary corrections.

§ 44. COUNTY BOARD OF EQUALIZATION—MEETINGS—DUTIES. ] The county commissioners, or a majority of them, with the county auditor, shall form a board for the equalization of the assessment of the property of the county; they shall meet for this purpose annually, on the second Monday in July, at the office of the auditor; and, having each taken an oath fairly and impartially to perform their duties as members of such board, they shall examine and compare the returns and assessment of the property of the several cities whether organized under general law or special charter, towns or districts of the county, and proceed to equalize the same, so that each tract or lot of real property shall be entered on the assessment list at its true and full value, subject to the following rules:

First. VALUATION OF REAL PROPERTY—WHEN TO BE RAISED.] They shall raise the valuation of each tract or lot of real property which in their opinion is returned below its true full value to such price and sum as they believe to be the true and full value thereof.

Second. SAME—WHEN TO BE REDUCED.] They shall reduce the valuation of each tract or lot which in their opinion is returned above its true and full value to such price and sum as they believe to be the true and full value thereof.

Third. VALUATION OF PERSONAL PROPERTY—WHEN TO BE RAISED.] They shall raise the valuation of each class or article of personal property which in their opinion is returned below its true and full value to such price and sum as they believe to be the true and full value thereof, and they shall raise the aggregate value of the personal property of each individual whenever they believe that such aggregate valuation is less than the valuation of the taxable personal property of such individual to such amount as they believe was the true and full value thereof.

Fourth. SAME—WHEN TO BE REDUCED.] They shall, upon complaint of any party aggrieved, being a non-resident of the town or district in which his property is assessed, reduce the valuation of each class of personal property enumerated in Section 16 aforesaid, which, in their opinion, is returned above its true and full value, to such price and sum as they believe to be the true and full value thereof; upon like complaint they shall reduce the aggregate valuation of the personal property of such individual, who, in their opinion, has been assessed at too large a sum, to such sum or amount as they believe was the true and full value of the personal property.

Fifth. AGGREGATE VALUATION NOT TO BE REDUCED, BUT MAY BE INCREASED.] They shall not reduce the aggregate value of the real property, or the aggregate value of the personal property of their county below the aggregate value thereof, as returned by the assessors, except as it may be necessary to make the valuation in the different townships equal with the additions made thereto by the auditor as hereinbefore required, but they may raise the aggregate valuation of such real property and of each class of personal property of said county or any town or district thereof, whenever they believe the sum is below the true and full value of said property or class of property, to such aggregate amount as they believe to be the true and full value thereof.

Sixth. AUDITOR TO PUBLISH RECORD—LENGTH OF TIME.] The county auditor shall keep an accurate journal or record of the proceedings and orders of said board, showing the facts and evidence upon which their action is based; and said record shall be published the same as other proceedings of county commissioners, and a copy of such published proceedings shall be transmitted to the Auditor of the State, with the abstract of assessment hereinafter required. The county board of equalization may continue in ses-

sion, and adjourn from day to day not exceeding ten days, commencing on the said second Monday of July; the county commissioners on completion of equalization, must proceed to make the levy for taxes for the current fiscal year.

§ 45. CORRECTED LISTS—ABSTRACTS FOR STATE AUDITOR.] The county auditor shall calculate the changes of the assessment lists determined by the county board of equalization, and make corrections accordingly. Having made such corrections of the real or personal lists, or both, as the case may be, he shall make duplicate abstracts of the same, one copy of which he shall file in his office and one copy he shall forward to the Auditor of the State, on or before the fourth day of August following each county equalization.

§ 46. STATE BOARD OF EQUALIZATION—HOW CONSTITUTED—MEETINGS—RULES FOR EQUALIZING.] 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 first 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. 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.

§ 47. RECORD OF PROCEEDINGS TO BE PUBLISHED—SYNOPSIS TO BE SENT TO COUNTY AUDITORS—DUTY OF COUNTY AUDITOR AFTER EQUALIZATION.] The secretary shall keep a record of the proceedings of the board, which shall be published in the annual report of the State Auditor, and upon final adjournment he shall transmit to each county auditor an abstract of such proceedings specifying the per centum added to or deducted from the valuation of the real property of each of the several towns, villages or cities, and of the real property not in towns, villages and cities, in case an equal per centum has not been added to or deducted from each, and specifying also the per centum added to or deducted from the several classes of personal property, in each of the towns, townships, villages and cities in the State; and the county auditor shall add to or deduct from each tract or lot of real property in his county the required per centum on the valuation thereof, as it stands after the same has been equalized by the county board of equalization, adding in each case any fractional sum of fifty (50) cents or more, and deducting in each case any fractional sum of less than fifty (50) cents, so that the value of any separate tract or lot shall contain no fraction of a dollar, and shall also add to or deduct from such class of personal property in his county the required per centum on the valuation thereof, as it stands after the same has been equalized by the county board of equalization, adding or deducting in manner as aforesaid, any fractional sum, so that the value of any separate class of personal property shall contain no fraction of a dollar.

§ 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 improvement in cities or villages, or unless specially provided for by law, 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 Legislative Assembly and the rate of such tax shall be certified by the State Auditor to each county auditor on or before the fifteenth day of September annually. 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 tax 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 cent. of the same. The taxes voted by incorporated cities, villages, townships or school districts, shall be certified by the proper authorities to the county auditor on or before the twentieth day of July 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 and fixed 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.

§ 49. TAX LIST TO BE MADE OUT BY COUNTY AUDITOR—FORM OF THE BOOKS.] The county auditor shall make out the tax lists according to the prescribed form, and to correspond with the assessment districts of the county. The rate per cent. necessary to raise the required amount of the various taxes shall be calculated on the assessed valuation of property as determined by the State Board of Equalization; but in calculating such rates, no rates shall be used resulting in any fraction, or less than one-tenth of a mill; and in extending any tax whenever it amounts to the fractional part of a cent it shall be made one cent. The tax list shall also be made out to correspond with the assessment book, in reference to ownership and description of property, with columns for the valuation and for the various items of tax included in the total amount of all taxes set down opposite each description of property. The amount of special taxes shall be entered in the proper columns, but the general taxes may be shown by entering the rate per cent. of each tax at the head of the proper columns without extending the same, in which case a schedule of the rates per cent. of such taxes shall be made on the first page of each tax list; such lists shall also show in a separate column the years for which any piece or parcel has been sold for taxes, if the same has not been redeemed, or deeded for such taxes. The county auditor shall on or before the first day of December in each year, make and transmit to the State Auditor, in such form as the State Auditor may prescribe a complete abstract of the tax list of his county.

§ 50. CERTIFICATE OF COUNTY AUDITOR TO TAX BOOK.] It shall be the duty of the county auditor to make in each tax book or list a certificate in the following form, viz.:

STATE OF NORTH DAKOTA, }  
 .....COUNTY. }

I.....auditor [of]..... county, State of North Dakota, hereby certify that the following is a correct list of the taxes levied on the real and personal property in the town (or district, as the case may be) of..... for the year one thousand eight hundred and....

Witness my hand and official seal this.....day of .....18....

.....  
 County Auditor.

§ 51. TAX LISTS—WHEN TO BE DELIVERED TO TREASURER.] The county auditor shall deliver the lists of the several districts of the county to the county treasurer, on or before the first day of December in each year, taking his receipt therefor; and such lists



shall be full and sufficient authority for the county treasurer to receive and collect taxes therein levied.

§ 52. COUNTY TREASURER TO BE COLLECTOR OF TAXES.] The county treasurer shall be the receiver and collector of all taxes extended upon the tax list of the county, whether levied for state, county, city, town, school, poor, bridge, road or other purposes, anything in the charter of any city or town, or in any other act of the Legislative Assembly of the Territory of Dakota heretofore passed to the contrary notwithstanding; except the special taxes for local improvements provided for in Article 15, Chapter 73, Laws of 1887, and also of all fines, forfeitures or penalties recieved by any person or officer for the use of his county; and he shall proceed to collect the same according to law, and place the same, when collected, to the credit of the proper funds; but this provision shall not be construed so as to include any fines or penalties accruing to any municipal corporation for the violation of its ordinances and which were recovered before any city justice.

§ 53. THE RECEIPTS—WHAT THEY SHALL SPECIFY—DUPLICATE STUBS.] The county treasurer upon the payment of any tax, shall give to the person paying the same a receipt thereof, specifying therein the land, town or city lot, or what other property, on which said tax was levied, according to its description on the tax list or in some other sufficient manner and the year or years for which the tax was levied, and each year's tax shall be on a separate receipt, and the receipts for each year shall be numbered from one upwards, until the tax list is returned to the auditor. Each receipt shall also specify the years for which any of the real estate described therein has been sold for taxes and not redeemed. The said receipt shall have a duplicate stub, showing the name of the person, description of property and the amount and date of payment; and the county treasurer shall return all such duplicate stubs made by himself or deputies, to the auditor at the end of each day, who shall file and preserve them in his office, charging the treasurer with the amount thereof.

§ 54. WHAT ORDERS RECEIVED FOR TAXES.] The county treasurer shall receive State warrants for State taxes and county warrants on the several county funds for which taxes may be levied, to the amount of the tax for such fund, without regard to priority of number; and he shall write or stamp across the face of all such county warrants the date of their receipt, and the name of the person from whom received.

§ 55. DELINQUENT PERSONAL PROPERTY TAX—PENALTY—DISTRESS.] All unpaid personal property taxes shall be deemed delinquent on the first 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 first 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 in three public places in the town or district where such property is taken and in one official newspaper, if there is one in the county; *Provided*, The amount of said taxes to be collected by distress will not be less than fifteen (15) dollars, stating the time when and the 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 day 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.

§ 56. LIST OF UNCOLLECTED TAXES TO BE FILED WITH THE AUDITOR—CANCELLATION BY COMMISSIONERS.] If the county treasurer is unable for want of goods or chattels whereupon to levy, to collect, by distress or otherwise, the taxes, or any part thereof, which may have been assessed upon the personal property of any person or corporation, or any executor or administrator, guardian, receiver or accounting officer, agent or factor, such treasurer shall file with the county auditor, on the first day of June following, a list of such taxes with an affidavit of himself or the deputy treasurer entrusted with the collection of said taxes, stating that he had made diligent search and inquiry for goods and chattels wherewith to make such taxes and was unable to make or collect the same; he shall note on the margin of such list the place to which any delinquent tax payer may have removed, with the date of his removal, if he is able to ascertain such fact. The county auditor shall deliver such list and affidavit to the board of county commissioners at their first session thereafter, and they shall cancel such taxes as they are satisfied can not be collected.

§ 57. SUIT AND JUDGMENT FOR DELINQUENT TAX PROCEEDINGS.] Within ten days after the adjournment of the board of county commissioners, the auditor shall file a copy of such revised list with the clerk of the district court of the county and within ten days after the filing of such copy, the clerk shall issue and deliver to the sheriff of the county where the person against whom such tax is claimed may at the time reside or be, for service, a citation to each delinquent named on said list, stating the amount of tax and penalty, and requiring such delinquent to appear on the first day of the next general term of the district court in the county and show cause if any there be, why he should not pay said tax and penalty; and if he fails to pay said tax, penalty and costs to the sheriff before the first day of the term, or on said day to show cause as aforesaid, the court shall direct the clerk to enter a judgment against such delinquent for the amount of such tax, penalty and costs, and such taxes shall from the date of docketing of such judgment, and not before, become a lien upon any real estate in

the county which the judgment debtor shall own or the title to which he may subsequently acquire; *Provided, however,* That whenever the sheriff has for any reason been unable to serve any citation, heretofore issued in such proceeding in any year or years, or whenever the court has or hereafter may for any reason decide that the service of any such citation heretofore made or attempted to be made, or that the issuance thereof by the clerk was illegal, the clerk of said court shall in every such case issue another citation of the character aforesaid, and requiring such delinquent to appear on the first day of the next general term of said district court, held in said county, to show cause as aforesaid, and if he fails to pay the tax, penalty and costs to the sheriff before said first day of said term, or to show cause as aforesaid, the court shall direct the clerk to enter judgment as aforesaid; *Provided, further,* That all citations other than the first, shall only be issued upon the request of the state's attorney for said county; and, *Provided, further,* The citation herein provided for shall be *prima facie* evidence that all the provisions of law in relation to the assessment and levy of taxes have been complied with, and no omission of any of the things by law provided in relation to such assessment or levy, or of anything required by any officer or officers to be done prior to the issuance of such citation, shall be a defense or objection to such taxes, unless it be made to appear that such omission has resulted to the prejudice of the party objecting, and that such taxes have been unfairly or unequally assessed, and in such case, but in no other, the court may reduce the amount of such taxes and give judgment accordingly. It shall, however, always be a defense to such taxes, that the same have been paid, or that the property upon which the same were assessed, was not subject to taxation.

§ 58. CLERK'S FEES FOR JUDGMENT—EXECUTION.] The clerk shall receive as fees for issuing such citation and perfecting judgments one dollar and fifty cents (\$1.50) in case not contested; and in contested cases, such fees as are allowed by law in civil actions. Executions shall be issued upon such judgment at the request of the state's attorney, and shall state that the judgment was obtained for delinquent taxes, and no property shall be exempt from seizure thereon.

§ 59. PENALTY FOR NEGLECT FOR REFUSAL OF TREASURER.] If any county treasurer shall refuse or neglect to collect any tax assessed upon personal property where the same is collectable, or to file the delinquent list and affidavit, as herein provided, he shall be held, in his next settlement with the auditor, liable for the whole amount of such taxes uncollected, and the same shall be deducted from his salary or fees and applied to the several funds for which they were levied.

§ 60. REMOVAL OF DELINQUENT TAXPAYER TO ANOTHER COUNTY—DUTY OF THE AUDITOR.] The county auditor, within thirty days after receiving the delinquent list of personal property taxes,

shall make out and forward to the clerk of the court of any county in this State to which any delinquent tax-payer may have removed, a statement or account of such delinquent taxes, specifying the value of property on which said taxes were levied thereon, to which he shall add an amount equal to the sum of 25 per centum on the taxes levied, if said delinquent tax-payer left the county in which said taxes were levied after the time required by law for the county auditor to deliver the tax list to the county treasurer; but if he left the county previous to the time required by law for the delivery of the list to the county treasurer, then the said county auditor shall not add 25 per centum.

§ 61. MANNER OF COLLECTING FROM SUCH PERSON.] On receipt of any such statement or account, the clerk of the court receiving the same shall issue his warrant to the sheriff of his county, and the sheriff shall immediately proceed to collect the same of the person so charged with said taxes and per centum, together with a fee of twenty-five (25) cents for each warrant so issued; which sum when collected shall be paid to the clerk as his fee for issuing the same and all taxes thus collected shall be by him remitted to the treasurer of the county to which said taxes belong; and at the same time he shall return the original statement or account to the auditor of the county from which it was received, stating the amount of his collections, and, if any taxes remained unpaid the reason why said taxes could not be collected, certifying in his official capacity to the same; and the auditor shall charge the treasurer to whom such remittance is made with the amount thereof, and cancel said taxes from the list; *Provided*, That in case of all delinquent taxes collected by the sheriff receipts shall be issued to him and payment shall be made in the manner provided in Section 53 of this act.

§ 62. THE TREASURER'S FEES FOR MAKING DISTRESS AND SALE.] The county treasurer or his deputy shall be allowed the same fees for making distress and sale of goods and chattels, for the payment of taxes, as are allowed by law for constables for making levy and sale of property on execution; traveling fees to be computed from the place of holding elections of any town or district to the place of making the distress, unless such distress is made by his deputy, in which case the same shall be computed from the residence of such deputy; which fee shall be added to the tax and collected by the treasurer. Upon payment to the county treasurer of any personal property tax for which judgment has been obtained, the treasurer shall deliver a certificate of the fact of such payment, to the clerk of the court, who shall satisfy the judgment upon the margin of the record thereof, by stating the date of payment, and number of the receipt given therefor, and file such certificate.

§ 63. SETTLEMENT BETWEEN TREASURER AND AUDITOR.] On the first day of each month (except the month of February) of each year, the county treasurer shall make a full settlement with

the county auditor of his receipts and disbursements since the last settlement, and turn over to the auditor county warrants paid by him and all auditor's warrants paid, taking the receipt of the auditor for such vouchers, and the auditor and the treasurer shall distribute and credit to the proper funds all sums received since the last settlement.

§ 64. ACCOUNTS TO BE KEPT BY AUDITOR WITH TOWNSHIP, ETC.] The county auditor shall keep accounts with the State, county, and with each township, city, incorporated village and school district in the county; and immediately after each settlement with the county treasurer, he shall credit the collections to the proper funds; and upon application of any town, city, village or school district treasurer, the auditor shall give him an order on the county treasurer for the amount due such township, city, village or school district, and shall charge them respectively with the amount of such order; *Provided*, That the person so applying for such order shall deposit with the auditor a certificate from the clerk of the township, city, village, or school district, stating that such person is treasurer of such township, city, village or school district, duly elected or appointed, and that he has given bond according to law.

§ 65. WHEN TREASURER SHALL PAY OVER THE FUNDS COLLECTED.] The county treasurer shall immediately after each settlement pay over to the treasurer of the State, or of any municipal corporation or organized township, or any body politic, on the order of the county auditor, all monies received by him, arising from taxes levied and collected, belonging to the State, or to such municipal corporation or organized township, or school district, taking duplicate receipts therefor, one of which shall be filed in the office of the county auditor forthwith.

§ 66. RETURN OF TAX LISTS TO COUNTY AUDITOR ON JUNE FIRST—FIVE PER CENT. PENALTY.] On the first day of June of each year the county treasurer shall exhibit to the county auditor the several tax lists in his hands, having compared the same with his duplicate receipts, on file in the auditor's office and written opposite the amount of each tax so receipted for, the word "paid," and the number of the treasurer's receipt given in discharge of such tax; and each tract or lot of real property against which the taxes remain unpaid shall be deemed delinquent, and thereupon a penalty of 5 per cent. shall immediately accrue and thereafter be charged upon all such delinquent taxes without including such penalty therein, and any treasurer who shall receive payment of such taxes without including such penalty shall be liable to the county for the amount of such penalty.

§ 67. At the settlement on the first day of October in each year, the treasurer shall return the tax list to the auditor, and any person desiring to pay delinquent taxes contained in said list, shall receive from the auditor a statement of the amount due, and shall pay the said amount to the treasurer, taking his receipt

therefor, and said receipt when countersigned by the auditor, shall be a full discharge of such tax. On the first day of October an additional 5 per cent. shall accrue and be charged on all real estate taxes due and unpaid, to be computed upon the original tax and included in the statement provided for above.

§ 68. AUDITOR'S NOTICE OF SALE—FARM LANDS TO BE FIRST OFFERED FOR SALE IN BULK.] 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 twenty (20) 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 as provided for in Section 84 of this act; *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 at the lowest rate of interest shall be considered the lowest bidder; *Provided, further*, No higher rate of interest shall be allowed under the foregoing provisions than 10 per cent.

§ 69. PENALTY AND INTEREST—DISPOSITION OF.] All penalty and interest collected on delinquent taxes prior to the sale or assign-

ment thereof for such delinquent taxes, shall be kept as a separate fund for the payment of the salaries of the treasurer and auditor, and necessary clerk hire for said offices; *Provided*, That if the amount collected in any one year shall exceed the expenses of said offices for that year, the remainder shall be credited to the county revenue fund, and no commissions or percentage for the collection of any taxes levied after the year 1889 shall be allowed or deducted therefrom, but the full amount collected for each fund shall be credited to said fund, and paid out as provided by law.

§ 70. AUDITOR TO SELL AT PUBLIC VENDUE.] The auditor shall sell by public vendue each piece or parcel of land separately in the order in which they are described in the delinquent list returned and by the description therein; but if the sum bid for any piece or parcel shall not be paid before the sale closes, he shall again offer such piece or parcel for sale; he shall state the amount for which each piece or parcel is to be sold, and shall then offer the same in fee to the highest bidder, who shall bid not less than the amount for which the same is to be sold. If no bidder shall bid an amount equal to that for which the piece or parcel is to be sold, then he shall bid in the same for the State at such an amount. The county treasurer shall attend the sale and receive all monies paid thereon.

§ 71. CERTIFICATE OF SALE OF EACH PARCEL—WHAT TITLE PASSES.] The auditor shall execute to the purchaser of any piece or parcel of land a certificate, which may be substantially in the following form:

COUNTY CERTIFICATE OF TAX SALE.

STATE OF NORTH DAKOTA, }  
 .....COUNTY. } ss.

I,.....auditor of the county of..... in the State of North Dakota, do hereby certify that the following described real estate in said county and State, to-wit: (describing same) was on the.....day of.....18....duly sold by me in manner provided by law for the delinquent taxes of the year 18....thereon, amounting to.....dollars, including interest and penalty thereon and the costs allowed by law to .....for the sum of.....dollars, he being the highest bidder for the same.

And I further certify that unless redemption is made of said real estate in the manner provided by law, the said..... or assigns, will be entitled to a deed therefor on and after the .....day of.....A. D. 18...., on the surrender of the certificate.

In witness whereof I have hereunto set my hand this ..... day of.....A. D. 18....

.....  
 Auditor.

§ 72. CERTIFICATE AS EVIDENCE—GROUNDS FOR AVOIDING SALE. ] Such certificate shall in all cases be *prima facie* evidence that all the requirements of the law with respect to the sale have been duly complied with, and that the grantee named therein is entitled to a deed therefor after the time of redemption has expired. And no sale shall be set aside or held invalid, unless the party objecting to the same shall prove, either that the taxes were paid prior to such sale or that notice of such sale as required by law was not given; or that the piece or parcel of land was not offered at said sale to the bidder who would pay the amount for which the piece or parcel was to be sold, or that the original tax levied was in excess of the amount allowed by law to be levied; and it shall be lawful for any person having or claiming title to any land, whether in his possession or whether it is vacant or unoccupied, or in the possession of any other person, to commence and maintain at any time an action against any person who claims any title or interest in said land or lien upon the same adversely to him by or through any tax certificate or tax deed heretofore or hereafter made to test the validity of the tax sale under which the sale was made to quiet his title to said land as against such claims of such adverse claimant, and to remove a cloud from his title arising from such tax certificate or tax deed, and it shall also be lawful for any person having or claiming title to any land to interpose and maintain at any time a defense to any action in law and equity concerning said land which may be brought against him by any person so claiming title adversely under such tax certificate or tax deed, and to test in such defense the validity of the tax sale upon which such certificate or deed was made to remove the clouds upon his title arising therefrom, and to quiet his title against such person so claiming title adversely thereunder, notwithstanding any and all laws heretofore passed which limited the time within which such action might be commenced or defense interposed.

§ 73. TAX SALE RECORD. ] The county auditor shall make a record of the sale of real estate for delinquent taxes in a book kept for that purpose, which shall show the name of the owner (if known), the description of each piece or parcel of property as contained in the tax list, the amount of tax, penalty and costs, the amount sold for, date of sale, to whom sold, number of the certificate, to whom assigned, date and amount of redemption (if redeemed), and by whom redeemed; if bid in for State the record shall so state.

§ 74. FEES FOR DEED AND CERTIFICATE. ] The auditor is authorized to demand twenty-five (25) cents for each deed or certificate made by him on such sale, and the fee of the notary public or other officer acknowledging the deed; but only one number of parcels of land bought by any one person shall be included in one deed or certificate; and whenever the auditor makes a deed of any land sold for taxes, he shall enter an account thereof in the sale book opposite the description of the land conveyed.



§ 75. WHO MAY NOT PURCHASE—EFFECT OF PURCHASE BY OWNER.] Any person except county auditors, county treasurers, and each of their deputies or clerks, may become the purchaser at such sale. If the owner purchase, the sale shall have the effect to pass to him (subject to redemption as herein provided) every right, title and interest of any and every person, company or corporation, free from any claim, lien or encumbrance, [except such right, title, interest, lien or encumbrance] as the owner so purchasing may be legally or equitably bound to protect against such sale, or the taxes for which such sale was made; and no such sale of real estate for taxes shall be considered invalid on account of the same having been charged in any other name than that of the rightful owner; *Provided*, That nothing herein contained shall be so construed as to prevent any officer or his deputy or clerk from becoming the purchaser at such sale of any lands, of which he may be the owner, or upon which he may have a lien; *Provided*, That no county auditor, county treasurer, their deputies or clerks shall act as agent or attorney for the purchasers at such sale.

§ 76. TAXES FOR SUBSEQUENT YEARS ON PROPERTY SOLD AT TAX SALE.] 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.

§ 77. PROPERTY BID IN FOR THE STATE—TO WHOM ASSIGNED—FORM OF ASSIGNMENT.] At any time after any piece or parcel of land shall have been bid in for the State, and before such piece or parcel of land shall become forfeited to the State, and while such tract or parcel of land shall remain unredeemed, the county auditor shall assign and convey the same and all the right of the State in any such piece or parcel of land acquired at such sale, to any person, except the county auditor, county treasurer and their deputies and clerks, who shall pay the amount for which the same shall have been bid in, and the amount of all subsequent delinquent taxes, penalties, costs and interest upon the same; and shall execute to such person a certificate or conveyance for each piece or parcel which may be substantially in the following form:

I,.....auditor of the county of.....  
State of North Dakota, do hereby certify that at the sale of real  
estate for the delinquent taxes thereon for the county of.....  
and State aforesaid, which sale was held at the.....  
in said county of.....on the.....day of.....  
A. D. 18.., for the taxes of the year.....the following described  
piece or parcel of land situate in said county of.....,  
State of North Dakota, to-wit: (insert description) was offered

for sale to the highest bidder above the amount for which the same was subject to be sold; and no one bidding upon such offer an amount equal to that for which said piece or parcel was subject to be sold, the same was then bid in for the State at such amount, being the sum of.....and the same still remaining unredeemed, and, on this day.....having paid into the treasury of said county the amount for which the same was so bid in, and all subsequent taxes, penalties, costs and interest, amounting in all to.....dollars; therefore, in consideration thereof, and pursuant to law, I do hereby assign and convey all the right, title and interest of said State to said piece or parcel of land, acquired therein at said sale to the said..... his heirs and assigns, subject to redemption as provided by law.

And I further certify that unless redemption is made of said real estate in the manner provided by law, the said..... or assigns will be entitled to a deed therefor, on and after the expiration of the time for redemption, as provided by law, and upon the surrender of this certificate. In witness whereof I have hereunto set my hand and seal this.....day of.....18....

.....  
County Auditor.

§ 78. REDEMPTION WITHIN THREE YEARS FROM SALE.] If at said sale any piece or parcel of land, shall be sold to a purchaser, or bid in for the State, the same may be redeemed at any time within three years from the date of sale by any person having an interest therein, who shall pay into the treasury of the county for the use of the person thereto entitled:

First. WHEN RIGHT OF STATE NOT ASSIGNED.] If such piece or parcel shall have been bid in for the State, and the right of the State shall not have been assigned, the amount for which the same was bid in, together with a penalty of 5 per cent. to be added immediately at the close of the sale on the amount sold for, with interest at the rate of 15 per cent. per annum, and all subsequent delinquent taxes, penalties, costs and interest thereon.

Second. WHEN RIGHT HAS BEEN ASSIGNED.] If the right of the State shall have been assigned, the amount paid by the assignee, with interest from the day when so paid, and all unpaid delinquent taxes, interests, costs and penalties that may have accrued on such piece or parcel, after such assignment; and if he shall have paid any delinquent taxes, penalties, costs or interest accruing subsequent to the assignment, the amount so paid by him with interest at the rate of 15 per cent. per annum from the day of such payment.

Third. WHEN SOLD TO A PURCHASER.] If the same shall have been sold to a purchaser, the amount paid by such purchaser with interest, and penalty at the rate above provided, and if he shall have paid any subsequent delinquent taxes, penalties, costs or interest accruing subsequent to the sale, the amount so paid by him with interest from the date of paying the same, at the rate of 15

per cent. per annum, and all unpaid delinquent taxes, penalties, interest and costs accruing subsequent to the sale; *Provided*, That, when the property is bid in for the State the 5 per cent. penalty collected under the provisions of this section shall go to the salary fund, and in case of sale to a purchaser at the sale, the said penalty shall go to said purchaser.

§ 79. CERTIFICATE OF AUDITOR—RECEIPT BY TREASURER.] The county auditor shall certify to the amount due upon such redemption, and on payment of the same to the county treasurer, he shall make duplicate receipts for the certified amount, describing the property redeemed, one of which shall be filed with the county auditor, which shall have the effect to annul the sale. If the amount so paid for the purpose of redemption be less than required by law, it shall not invalidate such redemption, but the auditor shall be liable for the deficiency to the persons entitled thereto.

§ 80. REDEMPTION BY MINORS, ETC.—WHEN TO BE MADE.] Minors, insane persons, idiots or persons in captivity, or in any country with which the United States are at war, having an estate in or lien on lands sold for taxes, may redeem the same within five years after such disability shall cease; but in such case the right to redeem must be established in a suit for that purpose, brought against the party holding the title under the sale.

§ 81. UNDIVIDED ESTATES—HOW REDEEMED.] Any person who has, or claims an interest in, or lien upon any undivided estate in any piece or parcel of land sold, may redeem such undivided estate by paying into the treasury a proportionate amount required to redeem the whole; and in such case the certificate shall express the estate or interest redeemed.

§ 82.] WARRANTS TO BE DRAWN FOR MONEY DUE OWNERS.] Upon application of the party entitled thereto, the auditor shall give to such party his warrant upon the treasurer for any money paid into the treasury on the sale of any piece or parcel of land in excess of the amount due upon such piece or parcel at the time of sale, or for any money paid in for redemption which may be due to the purchaser at the sale, or his assignee; *Provided*, That the certificate of sale shall be surrendered and cancelled at the time of such payment, or if the redemption is for a part, or undivided interest in such piece or parcel, the amount of such redemption and the proportion redeemed shall be endorsed thereon, which shall be a cancellation of such part of the certificate.

§ 83. RIGHTS OF PURCHASER WHEN LAND IS NOT REDEEMED.] The purchaser of any piece or parcel of land shall, if there be no redemption, be entitled to the possession, rents and profits at the end of three years from the date of sale; and if, on demand of such purchaser to the party or parties in possession, such party or parties refuse or neglect to render such possession, such party or parties may be proceeded against as persons holding over after the determination of his or their estate, which proceedings may

be instituted and prosecuted pursuant to the provisions of law in such case made and provided.

§ 84. VOID SALES—REPAYMENT OF MONEY TO PURCHASER.] When a sale of land as provided in this act is declared void by judgment of court, the judgment declaring it void shall state for what reason such sale is declared void. In all cases where any such sale has been or hereinafter shall be so declared void, or any certificate or deed issued under such sale shall be set aside or cancelled for any reason, or in case of mistake, or wrongful act of the treasurer or auditor, land has been sold upon which no tax was due at the time, the money paid by the purchaser at the sale, or by the assignee of the State upon taking the assignment, and all subsequent taxes, penalties and costs paid by such purchaser or assignee, shall, with interest at the rate of 10 per cent. per annum from the date of such payment, be returned to the purchaser or assignee, or the party holding his right, out of the county treasury on the order of the county auditor, and so much of said money as has been paid into the State Treasury shall be charged to the State by the county auditor and deducted from the next money due the State on account of taxes. The county treasurer or auditor shall be liable on their bond for any loss occasioned by any such wrongful act. Whenever any sale of land, or certificate, or deed, made or given under this act is declared void by judgment of court, unless the judgment declared the tax to be illegal, said tax and subsequent taxes, returned to the purchaser or assignee as provided in this section, shall remain a lien upon the land sold, and the county auditor shall advertise the same at the next succeeding annual sale, for the full amount of taxes, penalties and costs due on said piece or parcel of land.

§ 85. INDORSEMENT ON CERTIFICATE OF RECORD.] Before any certificate, assignment or conveyance provided for herein shall be recorded, the holder thereof shall present the same to the county auditor, who shall certify thereon that the property therein described still remains unredeemed, and no such certificate, assignment or conveyance shall be recorded by the register of deeds, unless such endorsement is made, for which the auditor shall be entitled to a fee of twenty-five (25) cents for each certificate.

§ 86. SALE OF PROPERTY BID IN FOR THE STATE.] All pieces or parcels of real property bid in for the State under the provisions of this act, and not redeemed or assigned within three years from the date of sale shall become the absolute property of the State, and may be disposed of by the county auditor at public or private sale, as the State Auditor may direct, subject to such rules and restrictions as he may prescribe. All tracts or lots be coming so forfeited to the State shall be stricken from the tax lists, and shall not be assessed or taxed until sold to an actual purchaser. The county Auditor shall, when required by the State Auditor, make out and transmit to him a list of all forfeited lands and lots, showing the date of forfeiture, assessed valuation, amount of taxes,

penalties, interest and costs, due on each description of property; and no tract or lot shall be sold for less than the amount so shown to be due thereon, unless such amount exceeds the actual value of the property, in which case it may be sold for such sum as it will bring at public or private sale. Any person having an interest in or lien upon any piece or parcel of forfeited land may redeem the same, at any time after forfeiture, and before sale thereof, by paying the amount due thereon.

§ 87. DEED TO BE GIVEN ON SALE OF FORFEITED PROPERTY.] Upon the sale of any tract or lot of forfeited real property, the county auditor shall execute to the purchaser thereof a deed in fee simple of the property so purchased, which shall pass to such purchaser absolute title therein described, without any act or deed whatsoever and, when so sold, such land or lots shall be again listed for taxation. If the former owner of the forfeited property becomes the purchaser, such deed shall pass to him and all rights of any action which may have arisen, or may exist, for any trespass committed upon such property prior to the execution of the deed. Such deed may be recorded as other deeds of real estate, and the record thereof shall have the same force and effect in all respects as the record of such deeds, and shall be evidence in like manner. The proceeds of lands or lots sold at such sale for a sum equal to or exceeding the amount of taxes thereon, shall be distributed the same as other collections of taxes, but if any tract or lot shall be sold for any sum less than such amount the State shall first be paid, and the remainder, if any, shall be divided equally between the county revenue and the general school funds.

§ 88. TAXES PAID BY OCCUPANT OR TENANT.] When any tax on any real estate is paid by or collected of any occupant or tenant, or any other person, which, by agreement or otherwise, ought to have been paid by the owner, lessor or other party in interest, such occupant, tenant, or other person, may recover by action the amount which such owner, lessor or party in interest ought to have paid, with interest thereon at the rate of 12 per cent. per annum, or may retain the same for any rent due or accruing from him to such owner or lessor for real estate on which such tax is so paid, and the same shall, until paid, constitute a lien upon said real estate.

§ 89. TAXES PAID BY MORTGAGEES OR OTHERS HAVING LIENS.] Any person who has a lien by mortgage or otherwise upon any real property on which the taxes have not been paid, may pay such taxes and the interest, penalty and costs thereon, and the receipt of the county treasurer shall constitute an additional lien on such land to the amount therein stated, and the amount so paid and the interest thereon at the rate specified in the mortgage or other instrument, shall be collected with, a part of and in the same manner, as the amount secured by the original lien.

§ 90. LIEN OF TAXES BETWEEN GRANTEE AND GRANTOR; ON PERSONAL PROPERTY.] The taxes assessed upon real property shall be a lien from and including the first day of May in the year in

which they are levied, until the same are paid; but between grantor and grantee, such a lien shall not attach until the first day of December of said year. The taxes assessed upon personal property shall be a lien upon the personal property of the person assessed from and after the time the tax books are received by the county treasurer.

§ 91. DEED NOT TO BE RECORDED WITHOUT AUDITOR'S CERTIFICATE OF TAXES PAID, ETC.] When any deeds, plat of townsite or instrument effecting the same, or any other conveyance of real estate is presented to the county auditor for transfer, he shall ascertain from the books and records in his office, and if there be delinquent taxes due, he shall certify to the same, and upon payment of such delinquent or other taxes that may be in the hands of the county treasurer for collection, he shall transfer the same, and note upon every deed of real property so transferred, over his official signature, "taxes paid," or if the land described has been sold or assigned to an actual purchaser, for taxes, "paid by sale of lands within;" and unless such statement is made upon such deed or other instrument, the register of deeds shall refuse to receive or record the same. A violation of the provisions of this section, by the register of deeds, shall be deemed a misdemeanor, and, upon conviction thereof, he shall be punished by a fine of not less than one hundred (100) dollars, nor not exceeding \$1,000; and he shall be liable to the grantee of any instrument so recorded for the amount of any damages sustained; *Provided*, That the sheriffs' or referees' certificates of sale on execution, decrees or foreclosures of mortgages may be recorded by the register of deeds without any such certificate from the county auditor and said auditor shall keep a record of such transfers in a book kept for that purpose, showing the names of the grantor and grantee, a description of the property, and the date of transfer, and shall receive twenty-five (25) cents for each certificate from the person or persons presenting the same for certification, and shall retain said amount for services.

§ 92. DIVISIONS OF VALUATION WHERE PART OF A TRACT IS TRANSFERRED.] When the transfer of any land or town lot, or any part thereof becomes necessary by reason of a sale or conveyance is of less value than the whole tract or lot, or part thereof as charged in the tax list, said county auditor shall transfer the same whenever the seller and purchaser agree thereto in writing, signed by them or personally appear before the auditor, and agree upon the amount of valuation to be transferred therewith; but if the seller and purchaser do not agree as to the amount of valuation to be transferred, the auditor shall make such divisions of the valuation as may appear to him just. If the county auditor is satisfied that the proportion of valuation agreed by the parties in interest to be transferred is greater than the proportional value of the land or lot to be transferred therewith, and that such agreement was made by collusion of the parties, and with a view fraudu-

lently to evade the payment of any taxes which might be legally assessed on the entire tract or lot, he may refuse to make such transfer; and when any such transfer has been procured by fraudulent agreement, the same shall be cancelled by the auditor, and the land or lot so transferred be charged with taxes in the same manner as though said transfer had not been made.

§ 93. IRREGULARITIES OF LAND TO BE PLATTED INTO LOTS IF REQUIRED.] In all cases when any tract or lot of said land is divided into irregular shapes that can not be described except by meets and bounds, it shall be the duty of the owner of such tracts, upon the request of the county auditor, to have such land platted into lots; if such plat can not be made without actual survey of the land, then they shall have the same surveyed and the plat thereof recorded. If the owners of any such tract shall refuse or neglect to cause such plat and survey, when necessary, to be made and recorded within thirty days after such request, the county surveyor, upon the request of the county auditor, shall make out such plat from the record of the register of deeds, if practicable; but if it can not be made from such records, then he shall make the necessary survey and the plat thereof, and the said auditor shall have the same recorded; such plats being duly certified and recorded, the description of the property in accordance with the number and description set forth in such plat shall be deemed a good and valid description of the lots or parcels of land so described. When the owners of such land fail to comply with the provisions of this section, the costs of surveying, platting and recording shall be paid by the county, upon allowance by the county commissioners, and the amount thereof shall be added to the tax upon such tracts or lots the next ensuing year, which tax, when collected, shall be credited to the county fund.

§ 94. ABBREVIATIONS IN DESCRIBING LAND, ETC.] It shall be sufficient to describe land in all proceedings relative to assessing, advertising or selling the same for taxes by initial letters, abbreviations and figures to designate the township, range, sections or parts of sections, and also the number of the lots and blocks. Whenever the abbreviation "do" or characters "„" or any similar abbreviations or characters shall be used in any such proceedings, they shall respectively be construed and held as meaning and being the same name, word, initial letter or letters, abbreviations, figure or figures, as the last preceding such "do," or "„" or other similar characters.

§ 95. LETTING OF PUBLICATION OF TAX LIST.] The county commissioners shall let the advertising of the delinquent tax list to the publisher or proprietor of a newspaper having not less than four pages of five columns to the page, each column to be not less than two inches wide, and not less than seventeen inches long, printed or partly printed in the English language, and of general circulation; *Provided*, There are two or more such newspapers published in the county, which shall have been published and cir-

culated not less than three months prior to the time of letting, for the lowest sum—not to exceed eight cents for each description—and who shall give a bond to the county with at least two sureties, freeholders of the county, to be approved and in amount to be fixed by said county commissioners, conditioned for the correct and faithful performance of such advertising.

§ 96. AUDITOR TO CORRECT FALSE LISTS AND RETURNS.] The county auditor, if he has reason to believe or is informed that any person has given to the assessor a false statement of his personal property, or that the assessor has not returned the full amount of all personal property required to be listed in his township or district, or has omitted or made an erroneous return of any property which is by law subject to taxation, shall proceed at any time before the final settlement with the county treasurer, to correct the return of the assessor and to charge the owners of such property, on the tax lists, with the proper amount of taxes; to enable him to do which, he is hereby authorized and empowered to issue compulsory process and to require the attendance of any person which he may suppose to have a knowledge of the articles or value of the property and examine such person on oath in relation to such statement or return; and the auditor in all such cases shall notify every such person before making the entry on the tax list that he may have an opportunity of showing that his statement on the return of the assessor is correct; and the county auditor shall, in all cases, file in his office a statement of the facts of evidence upon which he made such corrections.

§ 97. TAX NOT COLLECTED TO BE ADDED TO THE NEXT YEAR'S TAX.] If any tax on any property liable to taxation is prevented from being collected for any year or years, by reason of any erroneous proceedings or other cause, the amount of such tax, which such property should have paid, shall be added to the tax on such property for the next succeeding year.

§ 98. DEBTS OF MUNICIPALITIES VOID IF ENTAILING TAXATION BEYOND THE RATES FIXED BY LAW.] It shall be unlawful for the corporate authorities of any county, township, city, town or village or the authorities of any school district, unless specially and expressly authorized by law, to contract any debt or incur any pecuniary liability, for the payment of either the principal or interest, for which, during the current year or any subsequent year, it shall be necessary to levy on the taxable property of such county, township, city, town or village or school district, a higher rate of tax than the maximum rate prescribed by law; and every contract made in contravention of the provisions of this section shall be utterly null and void in regard to any obligation thereby imposed on the corporation on behalf of which such contract purports to be made: but every commissioner, officer, agent, supervisor or member of any municipal corporation, that makes or participates in making or authorizes the making of any such contract, shall be held individually liable for its performance; and every com-



missioner, supervisor, director or member of any city, town or village council or other officer or agent of any such municipal corporation present when any such unlawful contract was made or authorized to be made, shall be deemed to have made or to have participated in making, or to have authorized the making of the same, as the case may be, unless, if present, he dissented therefrom and entered or caused to be entered such dissent on the records of such municipal corporation, or of its council, supervisors or other office.

§ 99. EXEMPT PROPERTY TO BE VALUED AND ASSESSED.] At the time of taking the assessment of real property the assessor shall enter on a separate list, each description of property in the town or district exempt under the provisions of Section 5 of this act, and value and assess the same in the manner, and subject to the same rules as he is required to assess all other property, designating in each case to whom such property belongs, and for what purpose used.

§ 100. NEGLIGENCE OF DUTY BY OFFICERS.] Every county auditor and every district or township assessor who in any case refuses or knowingly neglects to perform any duty enjoined on him by this act, or who consents to or connives at any evasion of its provisions whereby any proceeding required by this act is prevented or hindered, or whereby any property required to be listed for taxation is unlawfully exempted, or the valuation thereof is entered on the tax list at less than its true value shall for every such neglect, refusal, consent or connivance, forfeit and pay to the State not less than two hundred (200) dollars nor more than \$1,000 at the discretion of the court, to be recovered before any court of competent jurisdiction.

§ 101. SUITS AGAINST OFFICERS DEFENDED AT EXPENSE OF COUNTY.] Whenever civil action is brought against any person holding the office of county treasurer, county auditor, or any town or district officer for performing or attempting to perform any duty authorized or decreed by any statute of this State for the collection of the public revenue, such treasurer, auditor or other officer, may, in the discretion of the court before whom such action is brought, by an order made by said court and entered in the minutes thereof, be allowed and paid out of the county treasury, reasonable fees of counsel and other expenses for defending such action.

§ 102. WHEN AUDITOR TO FORWARD LIST OF NEW TAXABLE LANDS.] A list of lands becoming taxable for the first time in each county of the State shall be procured by the State Auditor from the proper land officers at the best prices for the State, and a list of the lands becoming so taxable in each of the several counties shall be forwarded by the State Auditor to the auditor or county clerk of each county on or before the thirtieth day of March of each year.

§ 103. NOTICE WHEN TIME FOR REDEMPTION WILL EXPIRE—DUTIES OF CERTIFICATE HOLDERS AND AUDITORS.] Every person holding a tax certificate shall, at least ninety days before expiration of the time for the redemption of the lands therein described, present such certificate to the county auditor, and thereupon the auditor shall prepare, under his hand and official seal, a notice to the persons in whose name such lands are assessed, specifying the description of such lands, the amount for which the same were sold, the amount required to redeem such lands from sale, exclusive of the cost to accrue upon such notice, and the time when the redemption period will expire, which notice the auditor shall cause to be published once in each week for three consecutive weeks in some newspaper printed and published in the county where such lands are situated, if there be one; if none, then in some newspaper printed and published at the capital of the State. The fees of the sheriff for serving and the printer's fees for publishing such notice shall be added to the amount required to redeem such land, and shall be paid by the party offering to redeem such land before any certificate of redemption shall be issued. In case of failure on the part of the holder of any tax certificate to present the same to the auditor at the time hereinbefore provided, the same may be so presented at any time thereafter; and thereupon such notice shall be issued and served as hereinbefore provided, and the time for redemption of such lands shall expire sixty days after such notice; *Provided*, That the county shall not become liable for any expenses incurred under the provisions of this section.

§ 104. REDEMPTION WHEN OWNER DIES AFTER SALE.] That whenever the lands of any person heretofore have been or hereafter shall be sold for taxes, and the owner of such lands, after such sale and before the expiration of the period of redemption, heretofore has deceased or hereafter shall decease, the executor or administrator of such owner or any person interested in his estate as heir, or advisor, or creditor may redeem such lands from any such sale at any time within four years from the date thereof. If such redemption be made by a creditor, the amount paid to effect such redemption, with interest thereon at the rate of 7 per cent. per annum, shall constitute a valid claim against the estate of the deceased.

§ 105. SAME, WHEN MADE BY EXECUTOR, ETC.] If such redemption be made by an executor or administrator he shall at the time of making thereof produce his letters testamentary, or of administration to the county auditor; if made by another person he shall make and file with such auditor an affidavit stating under what right or claim such redemption is made.

§ 106. SAME—CERTIFICATE TO BE GIVEN BY AUDITOR.] Upon any such redemption being made, the county auditor shall make and deliver to the person making such redemption a certificate, containing the name of the person redeeming, a statement of the claim or right upon which such redemption was made, the amount

paid to redeem, a description of the land redeemed, the date of the sale of such lands and the year in which the taxes were levied for which such sale was made, which certificate shall have the effect to annul any such sale and such certificate may be recorded as other deeds of real estate, and with the like effect as evidence or otherwise.

§ 107. ACTS REPEALED.] All acts and parts of acts in any manner in conflict with this act or repugnant thereto are hereby repealed.

§ 108. EXISTING LAWS NOT AFFECTED.] This act shall not be construed to repeal or invalidate existing laws for collection of taxes from railroad corporations.

§ 109. EMERGENCY.] Whereas, an emergency exists in that this act provides for an assessment of real property only in even numbered years, and also that no provision has been made for a State Board of Equalization, and it is necessary that this act should become a law before the first day of July; therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 11, 1890.

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## CHAPTER 133.

[S. F. 226.]

### EXTENDING TIME FOR DELIVERY OF ASSESSMENT BOOKS BY COUNTY AUDITORS.

(Amendment to preceding chapter.)

AN ACT to Amend Section 29 and Section 70 of an Act Entitled "An Act Prescribing the Mode of Making Assessments and the Levy and Collection of Taxes and for Other Purposes Relative Thereto," Approved March 12, 1890

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

§ 1. AMENDMENT.] That Section 29 of an act entitled "An act prescribing the mode of making assessment and the levy and collection of taxes and for other purposes relative thereto," approved March 12, 1890, be amended so as to read as follows:

"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 book 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 block included in each description of property. There shall be appended to each personal property assessment book a list of all mortgages 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. 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 county commissioners shall meet upon that day for that purpose."

§ 2. AMENDMENT.] That Section 70 of said act be amended so as to read as follows:

"The auditor shall sell by public vendue, each piece or parcel of land separately in the order in which they are described in the delinquent list returned and by the description therein; but if the sum bid for any piece or parcel shall not be paid before the sale closes, he shall again offer such piece or parcel for sale; he shall state the amount for which each piece or parcel is to be sold and shall then offer the same in fee to the highest bidder who shall bid not less than the amount for which the same is to be sold. If no bidder shall bid an amount equal to that for which the piece or parcel is to be sold, then he shall bid in the same for the State at such an amount. The county treasurer shall attend the sale and receive all monies paid thereon; *Provided*, That none of the provisions of this act shall be construed so as to conflict in any manner with any of the provisions of an act entitled, 'An act providing for extension of the time for the payment of taxes for the year 1889, approved January 22, 1890.'"

§ 3. EMERGENCY.] There being an emergency by reason of its being necessary for the several county auditors to have time to prepare the necessary books and blanks for delivery to the assessors for this year's work, therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 19, 1890.

## CHAPTER 134.

[S. F. 185.]

## PROVIDING FOR TAX ON GROSS EARNINGS OF RAILROADS.

AN ACT to Amend an Act of the Legislative Assembly of the Territory of Dakota, Approved March 7, 1889, Entitled, "An Act Providing for the Levy and Collection of Taxes Upon the Property of Railroad Companies in this Territory."

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

THAT an act of the Legislative Assembly of the Territory of Dakota, approved March 7, 1889, entitled "An act providing for the levy and collection of taxes upon the property of railroad companies in this territory" be, and the same is hereby amended so as to read as follows:

§ 1. PERCENTAGE OF GROSS EARNINGS TO BE PAID IN LIEU OF OTHER TAXES. ] In lieu of any and all other taxes upon any railroad, except railroads operated by horse power, within this State, or upon the equipment, appurtenances or appendages thereof, or upon any other property situated in this State, belonging to the corporation owning or operating such railroads, and used exclusively in and about the prosecution of the business of such railroad companies, as common carriers, including the roadbed, right of way, shops and buildings of such railroad companies, and upon the capital stock or business transactions thereof, there shall hereafter be paid into the treasury of this State, an amount equal to a percentage of all the gross earnings of the corporation owning or operating such railroad, arising from the operation of such railroad, as shall be situated within this State, both upon State and inter-state traffic, in case the railroad company owning or operating such line shall accept or has heretofore accepted, and become subject to this act as hereinafter provided, or of the act of which this act is amendatory. Every such railroad, corporation or person owning or operating, or that may hereafter own or operate any line of railroad in this State, which shall have accepted this act, shall pay to said treasurer each year "for the first five years" after the approval of this act, an amount equal to 3 per centum of such gross earnings, "and for and in each and every year after the expiration of such five years, an amount equal to 2 per centum of said gross earnings," and the payment of such amount annually as aforesaid, shall be, and is, in full of any and all other taxation and assessment whatever upon the property aforesaid. Said payments shall be made, except as hereinafter

provided, one-half on or before the fifteenth day of February, and one-half on or before the first day of August in each year. And for the purpose of ascertaining to [the] gross earnings aforesaid, an accurate account of such earnings shall be kept by said company. An abstract shall be furnished by said company to the Treasurer of this State, on or before the first day of February in each year; the truth of which abstract shall be verified by the affidavits of the treasurer and secretary of such company, and for the purpose of ascertaining the truth of such affidavits and the correctness of such abstracts, full power is hereby vested in the Governor of this State, or any other person appointed by law, to examine under oath the officers and employes of said company, or other persons, and if any person so examined by the Governor or other authorized person shall knowingly or willfully swear falsely concerning the matter aforesaid, every such person is declared to have committed perjury. And for the purpose of securing to the State the payment to [of] the aforesaid per centum, it is hereby declared that the State shall have a lien upon the railroad of said company, and upon all property, estate or effects of said company whatsoever, personal, real or mixed; and the lien hereby secured to the State shall have and take precedence of all demands, decrees and judgments against said company.

§ 2. WHEN COMPANY SHALL FAIL TO MAKE RETURN.] If any such railroad company, having accepted this act, shall fail to make return of its gross earnings as aforesaid, or of any part thereof, at the time and in the manner provided by law, and such default shall continue during the period of thirty days, such company shall be subject to a penalty of an amount equal to 10 per cent. of the tax imposed upon such company by this act. And the Treasurer of the State shall forthwith ascertain the amount of such percentage justly due from such company, as near as may be from such evidence as may be available, and shall thereupon collect such amount so ascertained, together with the said penalty thereon. The amount so ascertained by the State Treasurer, as in this section provided, shall, together with the said penalty thereon, be by him entered in the books of his office, and such entry when so made shall stand in the place of the report required by law to be made by such company, and shall in all courts within this State be evidence of the amount of such tax and penalty and of the other facts stated therein, in pursuance of this act.

§ 3. NEGLECT TO PAY TAXES.] In case any railroad company, which shall have accepted the provisions of this act, shall fail or neglect to pay the amount reported at the time and in the manner hereinafter provided, for a period of thirty days after the same shall have become due by the terms thereof, in such case there shall be added, to the amount of such tax, 10 per centum thereof as a penalty for such failure or neglect of duty.

§ 4. STATE TREASURER TO DISTRAIN.] At any time after the expiration of the period of thirty days, after the amount as above

provided has become due and payable under the provisions of this act, the state treasurer, or his deputy, shall distrain sufficient goods, chattels or other movable property if found within this State, to pay the said amount due from such corporation, together with the penalty thereon, as hereinafter provided, and shall immediately advertise the sale of the same in at least three newspapers published within this State, stating the time when and place where such property shall be sold; such sale shall take place at some point on the railroad of such delinquent company, and at least four weeks' notice of the time and place of such sale shall be given. Such delinquent company, its successors or assigns, may pay in such amount and penalty at any time before the sale of the property distrained as herein provided, and thereupon further proceedings in connection with such distress shall cease, and the property distrained shall be delivered to the owner thereof.

§ 5. HOW TAXES APPORTIONED.] The monies received and collected by the State Treasurer in pursuance of this act, shall be disposed of by him as follows: One-half of the same shall be retained in the State Treasury for the use of the State, and the remainder shall be apportioned among the several counties into or through which the railroad or railroads of such companies run in proportion to the number of miles of track of the main line and its branches sustained in such counties respectively; *Provided*, That all monies paid by such companies upon statements of gross earnings heretofore made shall be distributed according to Section 6 of the act of which this is amendatory.

§ 6. HOW RAILROADS CAN ACCEPT PROVISIONS OF THIS ACT.] Any railroad company, which at the date of the passage of this act, owns or is engaged in operating any line or lines of railroad in this State, which has not accepted and become subject to the provision of the act of which this is amendatory, may at any time within thirty days after the passage of this act, by resolution of its board of directors, attested by its secretary, and filed with the Secretary of the State, accept and become subject to the provisions of this act. It is further expressly provided that any company failing to strictly comply with the provisions of this act within the time herein provided, shall be immediately subject to assessment and taxation in the manner provided for the assessment and taxation of the property of individuals of this State, and said taxes shall be collected in the same manner as is now provided in cases of property of individuals.

§ 7. WHEN RAILROADS NOT ENTITLED TO EXEMPTION SET FORTH IN THIS ACT.] The railroads and property of all railroad companies owning or operating lines of railway in this state, which have not accepted and become subject to the provisions of the act of which this is amendatory or shall not accept and become subject to the provisions of this act, shall not be entitled to the exemption in this act contained; but shall be subject to taxation in such manner as shall be provided

by law; *Provided*, That no further acceptance shall be required of such railroad companies as have already accepted of the act of which this is amendatory and become subject thereto.

§ 8. EMERGENCY.] Wherein, an emergency exists this act shall take effect and be in force from and after its passage and approval.

Approved March 20, 1890.

## CHAPTER 135.

[H. F. 164.]

### PROVIDING FOR ASSESSMENT AND TAXATION OF RAILROADS.

AN ACT to Provide for the Assessment of Railroad Property in this State and Prescribing the Manner of Levying and Collecting the Tax on the Same.

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

§ 1. RAILROAD PROPERTY TO BE ASSESSED BY STATE BOARD OF EQUALIZATION.] The State Board of Equalization shall at their annual meeting in August in each year, assess at its actual value, the franchise, roadway, roadbed, rails and rolling stock of all railroads operated in this State. To enable said board to make a correct valuation of such property, they shall have access to all reports, estimates and surveys of such lines of railroads as may be on file in the office of the Commissioners of Railroads, and shall have power to summons and compel the attendance of witnesses, and may examine such witnesses under oath in any matter relating to the value of such property. In estimating the value of each railroad, branches and sidetracks thereof they shall be governed by the same rules as are provided for the government of county and township assessors, in valuing other property in this State. They shall cause a record to be made of the estimated value placed upon each of the items set forth in this section which go to make the aggregate valuation of such assessments.

§ 2. APPORTIONMENT TO COUNTIES ACCORDING TO MILEAGE.] The Board of Equalization shall divide the valuation so found and determined of each continuous line by the number of miles of such line contained in the State, and the result shall be the valuation per mile for which said line shall be assessed. The value of each branch line shall be determined in the same manner, and such valuation per mile shall be apportioned to each county according to the number of miles of such line or branch line contained in such county.

§ 3. MILEAGE AND VALUATION, HOW CERTIFIED TO VARIOUS POLITICAL SUBDIVISIONS FOR TAXATION.] The State Auditor shall



at the time of certifying the equalized value of each organized county to the county auditor, also certify the number of miles of each main line of railroad, and branches and side tracks thereof contained in said county and the valuation per mile of such line or branch line as determined by the State Board of Equalization; and the county auditor of such county shall apportion such valuation to the cities, towns, townships and districts through which such railroads run according to the number of miles contained in each, as a part of the valuation of such city, town, townships and district for the purpose of taxation, and the same shall be taxed as personal property is taxed in each county.

§ 4. TAXATION IN UNORGANIZED COUNTIES.] The valuation so apportioned to unorganized counties in this State shall be taxed for State purposes only; and such tax shall be levied annually by the State Auditor at the same rate as other property is taxed for State purposes, and the State Auditor shall notify each railroad company so taxed of the amount of such tax, on or before the first day of December in each year, and such tax must be paid to the State Treasurer at the same time, and subject to the same penalty as is prescribed by law for the collection of personal property taxes in organized counties, and the State Treasurer shall have the same powers, and it shall be his duty to collect the said tax in the same manner as county treasurers are authorized by law to collect personal property taxes.

§ 5. WHEN PROVISIONS OF THIS ACT INOPERATIVE.] If at any time the Legislative Assembly shall provide by law for the payment of a per centum of gross earnings, by railroads, as authorized by Section 176 of the Constitution of this State, then and during the time such law shall be in force the provisions of this act shall be inoperative.

Approved March 20, 1890.

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## CHAPTER 136.

[H. F. 254.]

### TO LICENSE EXPRESS COMPANIES.

#### AN ACT to License Express Companies.

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

§ 1. LICENSE, HOW PROCURED.] Each and every express company doing any express business within this State, shall on or before the first day of August each year procure a license from the State Auditor, which license shall contain the name, popula-

tion and license fee of every station, town, village and city wherein said express company is doing business.

§ 2. "EXPRESS COMPANY" DEFINED.] The words "express company" herein used shall mean any person, company, or corporation doing an express business.

§ 3. LICENSE FEE TO BE DETERMINED BY POPULATION.] The State Auditor shall charge and the Treasurer shall collect from each and every express company doing business within this State five (5) dollars license fee for each and every station, town and city having 200 or less inhabitants, and ten (10) dollars license fee for each and every station, town or city having between 200 and 1,000 inhabitants in which they have an agent, and twenty-five (25) dollars license fee for each and every station, town and city having not less than 1,000 nor more than 3,000 inhabitants, and fifty (50) dollars license fee for each and every station, town and city having over 3,000 inhabitants in which they are doing business; *Provided*, That one or all stations, towns and cities may be named in one and the same license issued to one and the same company.

§ 4. EXPRESS COMPANIES TO FURNISH LIST OF TOWNS AND CITIES.] Each and every express company doing business in this State shall, on or before the first day of July each year, make out and deliver to the State Auditor a certified list of all stations, towns and cities in which they are doing business in this State.

§ 5. EXPRESS COMPANIES TO BE NOTIFIED OF LICENSE FEE REQUIRED.] The State Auditor shall immediately thereupon determine the number of inhabitants of each station, town and city according to the last census at his hands, and he shall satisfy himself of the correctness of the list of stations, towns and cities sent him. He shall then notify each and every express company of the number of inhabitants and the license fee of each and every station, town and city wherein they are doing business, and the total amount of license fee they are required to pay in this State, which notice shall be sent to the president, secretary or treasurer of the proper express company affected thereby, as soon as possible after the first day of July each year.

§ 6. LICENSE FEES TURNED INTO STATE TREASURY.] The State Auditor shall, upon payment of the license fee herein required, issue a proper license to the company entitled thereto and he shall pay all license fees into the State treasury general fund and shall take the State Treasurer's receipt therefor.

§ 7. BOOKS OF RECORD.] The State Auditor and Treasurer shall each keep a book in which shall be entered the name of every express company doing business in this State, the names of stations, towns and cities in which they are doing business and the number of inhabitants of each, and the amount of license fee collected for each station, town and city.

§ 8. PENALTY FOR FAILURE TO COMPLY WITH THIS ACT.] Any express company doing business within this State failing to com-

ply with the provisions of this act, shall be liable to a fine of not less than two hundred (200) dollars nor more than \$1,000 for each and every offense, at the discretion of the court, and no property belonging to said company shall be exempt from seizure and sale for such fine.

§ 9. ATTORNEY GENERAL TO PROSECUTE.] The Attorney General of this State shall prosecute all violations of this act.

Approved March 17, 1890.

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## CHAPTER 137.

[S. F. 158.]

### SLEEPING CAR LICENSE.

AN ACT Providing for the Payment of a License on Railway Sleeping Cars.

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

§ 1. LICENSE, AMOUNT OF.] All companies, corporations or persons, other than railway corporations operating railroads in this State, shall be required to pay a license of one hundred (100) dollars per annum on each and every sleeping car run or operated on any railroad in this State; *Provided*, That the aggregate amount of such license shall not exceed the amount of \$5,000 per annum.

§ 2. LICENSE FEE, WHEN TO BE PAID.] The license required by this act shall be issued for one year beginning on the first day of May in each year; and it shall be the duty of such companies, corporations or persons to pay such license fee into the State Treasury on or before the first day of May in each year, and the State Treasurer shall issue a duplicate receipt for the payments herein required to be made, which receipt in duplicate, it is hereby made the duty of such Treasurer to furnish.

§ 3. SECRETARY OF STATE TO ISSUE LICENSE.] The license required by this act shall be issued by the Secretary of State, and he shall issue a license for every sleeping car on which the license fee shall have been paid; the duplicate receipt of the State Treasurer, filed with the Secretary of State, shall be evidence of the number of sleeping cars on which such license fee has been paid.

§ 4. STATEMENT OF SLEEPING CAR COMPANY TO BE FILED WITH STATE TREASURER.] It shall be the duty of every company, corporation or person, at the time of the payments herein required to be made, to file with the State Treasurer, a statement sworn to by a proper officer of such company or corporation or by such per-

son; which statement shall contain the number of sleeping cars, with the names thereof, to be run or operated in this State by such company, corporation or person, as provided in Section 1, during the year for which such license is applied for, and for the purpose of ascertaining the truth of such affidavits and the correctness of such statements full power is hereby vested in the Railroad Commissioners to examine, under oath, the officers or employes of said companies, corporations, or said person, or other persons, and if any person so examined by the Railroad Commissioners shall knowingly or willfully swear falsely concerning the matter aforesaid, every such person is declared to have committed perjury, and for the purpose of securing to the State the payment of the aforesaid license, it is hereby declared that the State shall have a lien upon all property of said companies, corporations or persons, and the lien hereby secured to the State shall have and take precedence of all demands, decrees and judgments against said companies, corporations or persons.

§ 5. LICENSE FEE TO BE CREDITED TO GENERAL FUND.] All money received by the State Treasurer under the provisions of this act, shall by him be immediately placed to the account of the general fund of the State.

§ 6. PENALTY FOR FAILURE TO COMPLY WITH THIS ACT.] If any company, corporation or person operating or running sleeping cars in this State shall fail to make the sworn statement as provided in Section 4 of this act, at the time and in the manner provided by law, or to pay the license fees as herein provided, and such default shall continue during the period of thirty days, such company, corporation or person shall be subject to a penalty in an amount equal to 25 per cent. of the license fees due under the provisions of this act, and the Treasurer of the State shall forthwith ascertain the amount of such license fees due from such company, corporation or person as nearly as may be available, and shall thereupon collect such license fees so ascertained, together with said penalty thereon. The amount of license fees ascertained by the State Treasurer as in this section provided, shall, together with said penalty thereon [be] by him entered in the book of his office, and such entry, when so made, shall stand in the place of the sworn statement required by law to be made by such companies, corporations or persons, and shall, in all courts of this State, be evidence of the amount of such license fees and penalty, and of the other facts stated herein in pursuance of this act.

§ 7. DISTRESS AND SALE.] At any time after the expiration of the period of thirty days after any license has become due and payable under the provisions of this act, the State Treasurer or his deputy shall distrain sufficient property, goods or chattels, if found within this State, to pay the license fees due from such companies, corporations or persons, together with the penalty thereon herein provided, and the cost of sale and shall immediately ad-

vertise the sale of the same in at least three newspapers published in the State, stating the time when and the place where such property shall be sold, and four weeks' notice of the time and place of such sale shall be given. Such sale shall take place at some point in this State and the proceeds of the same shall apply to the payment of the license fees due, together with the penalty and costs of sale. The delinquent company, corporation or person, may pay any such license and penalty, together with the costs of the same at any time before the sale of the property distrained, as provided, and thereupon further proceedings in connection with such distress shall cease and the property returned to the owner thereof.

§ 8. WHAT SLEEPING CARS EXEMPT.] The provisions of this act shall apply to all companies, corporations or persons running or operating sleeping-cars in this State; *Provided, however,* That sleeping-cars owned and operated exclusively by railway companies doing business in this State as a part of their railway equipment, shall be exempt from the provisions of this act.

§ 9. EMERGENCY.] An emergency exists by reason of the fact that there is now no law requiring railway sleeping car companies doing business in this State to pay their just proportion of the State revenue, and it is necessary for said reason that this act be in force and effect long prior to July 1, 1890, and as soon as practicable, therefore this act shall be in force and effect from and after its passage and approval.

Approved March 20, 1890.

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## CHAPTER 138.

[H. F. 33.]

### LICENSE OF PUBLIC WAREHOUSES.

AN ACT to Provide for the Licensing of Public Warehouses.

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

§ 1. LICENSE, HOW OBTAINED—LICENSE FEE, HOW DETERMINED.] That annual State license must be obtained through the Commissioners of Railroads for each and every public grain warehouse in operation in this State. That no license issued under this act shall describe more than one public grain warehouse, or grant permission to operate any other public grain warehouse than the one therein described. The license fee is hereby fixed at two dollars and fifty cents (\$2.50) per 1,000 bushels elevator capacity or major fraction thereof for each public grain warehouse; *Provided,* That no license shall be issued for less than twenty-five (25) dollars,

and before any license is issued the person applying therefor shall file with the Commissioners of Railroads the receipt of the State Treasurer, showing that the applicant has paid into the State Treasury the amount of said license fee.

§ 2. LICENSE TO BE CONSPICUOUSLY POSTED—PENALTY.] That the license thus obtained shall be posted in a conspicuous place in the public warehouse so licensed. Every such license shall expire on the first day of August next following the issuance thereof, and no license shall run for a longer period than one year. That any person, association or corporation who shall transact the business of public warehousemen without first procuring a license as herein provided, shall, on conviction be fined a sum not less than one hundred (100) dollars for each and every day such business is carried on.

Approved March 31, 1890.

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## CHAPTER 139.

[S. F. 105.]

### TAXATION OF STOCK OF CORPORATIONS.

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—FEE.] That no corporation or association, other than those formed for religious, educational, benevolent, charitable, cemetery purposes, and building and loan associations, and county mutual fire insurance companies, associations for the manufacture of dairy products, and agricultural fair corporations, shall hereafter be created or organized under the laws of this State, unless the persons named as incorporators 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. FEE TO BE PAID IN CASE OF INCREASE OF CAPITAL STOCK.] No increase of the capital stock of any corporation or association heretofore or hereafter formed, other than those excepted in Section 1 of this act, shall be valid or effectual until such corporation

or association shall have paid into the State Treasury the sum of five (5) dollars for every \$10,000, or fraction thereof, of such increase in the capital stock of such corporation or association.

§ 3. DUPLICATE RECEIPT OF TREASURER FOR FEES PAID TO BE FILED WITH SECRETARY OF STATE.] It shall be the duty of every corporation or association hereafter organized, or which shall hereafter increase its capital stock, to file with the Secretary of State, at the time of filing the articles of association or instrument evidencing such increase, a duplicate receipt of the State Treasurer for the payments herein required to be made; which receipt, in duplicate, it is hereby made the duty of such Treasurer to furnish.

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

Approved March 3, 1890.

## CHAPTER 140.

[H. F. 347.]

### ASSESSMENT AND TAXATION IN UNORGANIZED COUNTIES.

AN ACT to Provide for Taxation of Real and Personal Property Situated in Unorganized Counties.

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

§ 1. ASSESSMENT IN UNORGANIZED COUNTY, HOW MADE—TAXES, HOW COLLECTED.] When any property subject to taxation is situated or kept in any unorganized county of this State, then such property shall be subject to taxation, and shall be listed and assessed by the assessor of the organized county to which said unorganized county is attached for judicial purposes; and the taxes due and payable on said property in said unorganized county shall be paid to and collected by the treasurer of said organized county to which said unorganized county is attached for judicial purposes; *Provided, however,* That said property situated in said unorganized county shall be assessed and taxed for State purposes only.

§ 2. EQUALIZATION AND LEVY.] The board of county commissioners of the county to which such unorganized county is attached for judicial purposes, shall at the time and place they equalize and correct the assessment roll of their county, equalize and correct the assessment roll of such unorganized county, and at the time and place they make their tax levy for county purposes, levy a tax upon the assessed property of such unorganized county, for State purposes only, in the same manner and form that they make

their levy for State purposes in their own county, and when such tax list is completed the board of county commissioners shall attach to such tax list their warrant under their hand and official seal, in general terms, requiring the county treasurer to collect the tax therein levied according to law, and they shall require an additional bond from the said county treasurer in such amount as they may deem necessary for the faithful discharge of his duties in collecting the said tax, and they shall audit and allow the necessary expenses of the assessor and treasurer for the assessment and collection of such tax which shall be paid upon their warrant, out of the tax so assessed and collected.

§ 3. TAX LISTS, HOW KEPT.] Such tax list when completed shall be kept by the county clerk or auditor as the property of such unorganized county. The clerk or auditor shall also prepare a duplicate of such tax list with the warrant of the county commissioners attached and deliver the same to the county treasurer and take a receipt for the same on or before the first day of November following the date of the levy, for the current year; and such tax list shall be full and sufficient authority for the collection by the treasurer of all taxes therein contained.

§ 4. TREASURER TO COLLECT TAXES.] It shall be the duty of the county treasurer, upon receipt of the tax list as aforesaid to proceed and collect said tax in the same manner and form in which other taxes are collected, and he shall pay the warrants drawn by the county commissioners upon said tax for necessary expenses of assessing and collecting the same and remit the remainder of the said tax to the State Treasurer.

§ 5. WHEN SPECIAL ASSESSORS MAY BE APPOINTED.] Whenever any organized county, to which such unorganized county may be attached for judicial purposes, is organized into civil townships, then the board of county commissioners of such organized county may appoint a special assessor for the purpose of assessing such unorganized county; said special assessor shall be required by the board of county commissioners to give bond and qualify the same as other assessors in this State.

§ 6. EMERGENCY.] An emergency existing for the reason that the assessing is required to be done long before July 1, 1890; therefore, this act shall take effect and be in force on and after its passage and approval.

Approved March 20, 1890.



## CHAPTER 141.

[H. F. 280.]

## ASSESSMENT AND TAXATION OF BANKRUPT STOCKS.

AN ACT Entitled "An Act to Provide for the Assessment and Taxation of Itinerant, Transient and Bankrupt Stock Merchants, and Providing for the Collection of Such Tax."

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

§ 1. BANKRUPT STOCKS, ETC., HOW ASSESSED.] That all itinerant, transient or bankrupt stock merchants or salesmen who vend goods within this State, at any time after the annual assessment is made shall be assessed and returned by the assessor of the town or city wherein he or they shall open or offer for sale any stock of goods, groceries or merchandise, by exhibiting the same, at the same rate as other merchants have been assessed; and such assessor shall forthwith return the same to the county treasurer to be extended upon the tax list by him.

§ 2. TAX, HOW COLLECTED.] Whenever such assessment is returned to the county treasurer, it shall be his duty to issue a warrant forthwith to the constable of the town wherein such itinerant or transient sales are being effected, commanding him to collect such tax forthwith.

§ 3. CONSTABLE TO SELL PROPERTY IF PAYMENT OF TAX IS REFUSED.] It shall be the duty of such constable to proceed forthwith according to the exigencies of his warrant and demand the amount of taxes so levied, from the person or persons conducting such sale, and if not paid, to levy the same upon any goods, wares and merchandise as shall be found in the possession of such salesman or salesmen, and sell the same after ten days' notice given in the nearest newspaper and make return thereof, deducting his legal fees and returning the surplus, if any after paying costs and taxes, to the owner, or reputed owner.

§ 4. All acts or parts of acts inconsistent herewith are hereby repealed.

Approved March 31, 1890.

## CHAPTER 142.

[S. F. 170.]

## LICENSING PEDDLERS.

AN ACT to License Peddling and Prescribing Penalties for the Violation Thereof.

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

§ 1. WHEN PEDDLING UNLAWFUL.] It shall be unlawful for any person to travel from place to place in any county within this State for the purpose of carrying to sell; or exposing or offering for sale, barter or exchange, at retail to consumers, any goods, wares, merchandise, or other articles of trade whatsoever except as hereinafter provided, whether by samples or otherwise, and whether said goods, wares, merchandise, notions or other articles of trade whatsoever, are delivered at the time of sale, or to be delivered at some future time, unless the said person shall have first obtained a license as a peddler as hereinafter provided, but this chapter shall not prevent any manufacturer, mechanic, nurseryman or farmer from selling his work or production by himself, or any patent right dealer from selling his own invention, or to prevent any person from selling or offering to sell at wholesale to dealers only, any goods, wares or merchandise whatsoever, or to prevent train boys from selling to persons traveling on railroad trains, or to prevent any person resident of this State who, by reason of being blind or deaf and dumb is incapacitated for hard manual labor, from selling goods, wares or merchandise on foot or with one horse and wagon, without a license.

§ 2. LICENSE TO PEDDLE, HOW OBTAINED.] Every person desiring to obtain a license as a peddler shall make application in writing to the auditor in the county in which he desires to travel as a peddler; said application shall be signed by the applicant, and shall state in what manner the applicant desires to travel as a peddler; said application shall be signed by the applicant, and shall state in what manner the applicant desires to travel and trade, whether on foot or with one or more horses or other beasts of burden.

§ 3. LICENSE FEE.] Every such applicant, before he shall be entitled to such license, shall pay into the treasury of the county where such application is made, the following license fees: If for a license to travel on foot including railroads or other public conveyance, the sum of fifteen (15) dollars; if for a license to travel and carry his goods with a single horse or other beast carrying or

drawing a burden, the sum of twenty-five (25) dollars; if for a license to travel with a vehicle or carriage drawn by two or more horses or other animals, the sum of forty (40) dollars.

§ 4. LICENSE, HOW ISSUED.] The county auditor, upon the filing of the application by the applicant, together with the treasurer's receipt for the proper license fee, shall grant to every such applicant a license, under his official seal, signed by himself or his assistant, authorizing such a license to travel and pursue business in the manner stated in his application, for the term of one year; *Provided*, That all license for peddlers shall expire on the thirtieth day of April in each year, and the amount due from such license shall be reckoned proportionately for that part of the year from the first day of the month in which the said license is issued to the first day of May following; but no license shall be issued under this act for a less sum than five (5) dollars; *Provided, further*, That the county auditor may issue a like license to any applicant therefor, who shall prove to the satisfaction of the said auditor that the said applicant served as a soldier in the United States army or navy during the late rebellion, and was thereby disabled and rendered unfit for hard manual labor, and was honorably discharged from said United States army or navy, without the payment of any license fee.

§ 5. PENALTY FOR VIOLATION OF THIS ACT.] Any person who shall be found traveling or trading in any county in this State contrary to the provisions of this act, or who shall refuse to produce his license for examination when requested so to do by any resident or officer of the county in which said person shall be traveling as a peddler, shall be deemed guilty of a misdemeanor, and shall be subject to a fine not exceeding twenty-five (25) dollars, or imprisonment in the county jail where the offense has been committed, not exceeding thirty days, or both fine and imprisonment, as the court may deem proper.

§ 6. THIS ACT NOT TO APPLY TO INCORPORATE TOWNS AND CITIES.] That nothing contained in any other provision of this act shall be so construed as to impair, interfere with, or take away any of the existing rights and authorities of incorporated towns, villages or cities to license and regulate peddlers within their incorporated limits.

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

Approved March 20, 1890.

## CHAPTER 143.

[H. F. 188.]

## COUNTY COMMISSIONERS TO LEVY TAXES IN CERTAIN CASES.

AN ACT Authorizing the Levy and Collection of Taxes in Cities and Towns and Villages Which have Failed or Refused to Elect Boards of Trustees, Aldermen or Council.

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

§ 1. WHEN COUNTY COMMISSIONERS MAY LEVY A TAX IN INCORPORATED TOWNS AND CITIES.] Whenever any incorporated city, town or village having an existing liability or indebtedness fails or refuses to elect proper officers for the government of said city, town or village, and authorized to levy taxes for the payment of any and all indebtedness for which said city, town or village may be liable, then it shall be the duty of the county commissioners of the county in which said city, town or village is located, upon proper showing by any person having a legal or subsisting claim against such city, town or village, that there are no legal officers in said city, town or village authorized to levy a tax for the payment of said indebtedness, to levy a tax in the same manner and for the same purposes that the board of directors, trustees or city council would be authorized to levy the same for the payment of such indebtedness; and any person having a claim against such city, town or village shall have the same right to enforce the levy of such tax by the said county commissioners that he would have had to compel such levy by the proper authorities of such city, town or village, had they been properly elected and qualified.

Approved February 17, 1890.

## CHAPTER 144.

[S. F. 116.]

## GOPHER TAX.

AN ACT Authorizing the Counties in the State of North Dakota to Raise and Expend a Fund for the Destruction of Gophers.

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

§ 1. LEVY OF TAX FOR DESTRUCTION OF GOPHERS.] The county commissioners of any county in this State may, at the time fixed

by law for the levy and assessment of taxes, levy a tax, not exceeding two mills on the dollar of assessed valuation, upon all real estate in said county, the proceeds of which shall be used solely for the purpose of promoting the destruction of gophers in said county.

§ 2. **FUND, HOW USED.]** The fund provided to be raised in accordance with Section 1 of this act, shall be denominated the gopher destruction 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 board deemed best to secure the abatement and extinction of the gopher pest.

§ 3. **REPEAL.]** All acts and parts of acts conflicting with the provisions of this act are hereby repealed.

§ 4. **EMERGENCY.]** The necessity for protection from the ravages of gophers during the coming spring and summer creates an emergency which must be met; therefore, this act shall take effect from and after its passage and approval.

Approved March 8, 1890.

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## CHAPTER 145.

[S. F. 21.]

### EXTENSION OF TIME FOR PAYMENT OF TAXES FOR 1889.

AN ACT Providing for Extension of the Time for the Payment of Taxes for the Year 1889.

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

§ 1. **WHEN TAXES DELINQUENT—WHEN PENALTY ADDED.]** That all unpaid taxes for the year 1889 shall become delinquent on the first Monday in February, 1890, and shall draw interest at the rate of 1 per cent. per month from date of such delinquency until the fifteenth day of October, 1890, 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—DUTY OF COUNTY TREASURER.]** The county treasurers of the various counties in this State of North Dakota shall not proceed to collect by distress and sale, any of the taxes hereinbefore referred to, until after the fifteenth of October, A. D. 1890; *Provided*, That in case any person having only 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 first day of February 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 immediately from and after its passage and approval.

Approved January 22, 1890.

## SCHOOL LANDS.

### CHAPTER 146.

[H. F. 32.]

#### PROVIDING FOR LEASE AND SALE OF PUBLIC SCHOOL LANDS.

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. BOARD OF UNIVERSITY AND SCHOOL LANDS TO HAVE CONTROL OF SCHOOL LANDS—COUNTY BOARDS OF APPRAISAL.] 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 Article 9 of the Constitution and the provisions of this act. Said board shall have the control of appraisements, 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. The superintendent of schools, the chairman of the county board of commissioners, and the county auditor of each county, shall constitute the "county board of appraisal" of the common school lands, in and for their respective counties.

§ 2. LISTS 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 immedi-

ately 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.

§ 3. LANDS TO BE LEASED.] The Board of University and School Lands upon the receipt of said lists of school lands from the respective county superintendents, shall proceed to advertise for lease and to lease and offer for lease such school lands, or such part thereof, as in the judgment of said board can be leased with profit to the school fund of the State, or as the Legislature may by law order to be leased. Such lands as shall be leased in the year 1890 for the first time, shall be leased either until September 1, 1891, or for a longer period, not exceeding five years, in the discretion of said Board of University and School Lands, unless otherwise provided by law.

§ 4. ADVERTISEMENT.] All such lands to be leased or offered for lease lying within the respective counties shall be advertised for lease by publication once a week for not less than sixty days in some newspaper of general circulation in the vicinity of such lands, and in one newspaper at the seat of government; such advertisement shall contain the designation or proper description of each tract or parcel of land so to be leased, the time when and place where such lands will be so leased, and the terms of the lease. A copy of such advertisement shall also be posted in a conspicuous place at the court house of the county.

§ 5. LANDS, HOW LEASED—ANNUAL RENT, HOW PAID.] The leasing shall be at public auction to the highest bidder at the door of 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 it may be adjourned over the Sabbath or any legal holiday. 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 rent in all cases of lease shall be payable annually in advance.

§ 6. LEASING, HOW CONDUCTED—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. After all such lands so advertised shall have been leased or offered for lease, said superintendent and auditor shall make in triplicate a certified 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.

§ 7. CONTRACT OF LEASE, HOW EXECUTED—RENTS TO BE PAID OVER TO STATE TREASURER.] Within three days after the leasing of each tract the lessee thereof and the county auditor shall execute in duplicate a contract of lease for said tract in the form prescribed by the Board of University and School Lands, and the lessee shall pay to the county treasurer the rental of said tract of land, taking his receipt therefor. One copy of said contract of lease shall be retained by the lessee, and the county auditor shall file the other copy of said contracts of lease with the Auditor of State, who shall deposit them in the archives of the Board of University and School Lands. The county treasurer shall pay over the amount received by him as rent for said lands, with an accurate statement thereof, to the Treasurer of the State, and such amounts so received as rent shall be and constitute a part of the interest and income of the permanent school fund of the State.

§ 8. LESSEE NOT TO DESTROY TIMBER.] No lessee of any tract or tracts of the common school lands of the State, or his heirs or assigns, shall cut down or take from any such tract or tracts any timber, trees or wood, or suffer or cause the same to be done by any other person or persons, except that such lessee may cut down or use such an amount of dead or prostrate trees or timber as may be sufficient to supply him with fuel for his family or the families of his employes actually residing upon such tract or tracts. Any lessee violating the provisions of this section shall forfeit his lease and all rights and interests thereunder, to possession or use, and shall furthermore be liable to the State for damages by such acts incurred, and shall also be liable to criminal prosecution under the laws of the State.

§ 9. LESSEE NOT TO BREAK UNCULTIVATED LAND.] No lessee, or the heirs or assigns of any lessee, of any tract or tracts of the common school lands of this State, leased for meadow or pasturage purposes, or lessee of any tract or tracts of school lands leased for purposes of cultivation which may contain any unculti-



vated or unbroken land, shall break, plow or cultivate any unbroken or uncultivated land in any tract or tracts of school lands, or cause or suffer it to be done by any other person. And any lessee, or his heirs or assigns, who shall violate the provisions of this section shall incur the same forfeitures and the same liabilities as provided by the preceding section.

§ 10. HAY NOT TO BE CUT BEFORE JULY 10TH.] No lessee, or his heirs or assigns, shall mow or cut for hay or feed, any grass on any uncultivated land, or unbroken land, or cause or suffer the same to be done by any other person, any year before the 10th day of July therein. And any lessee, or his heirs or assigns, who shall violate the provisions of this section shall incur the same forfeitures and the same liabilities as are provided by the preceding section.

§ 11. FEES FOR CONDUCTING THE LEASING OF SCHOOL LANDS.] The county auditor shall receive for his services in conducting the leasing of such school lands, the execution of said leases with the several lessees, the making out of the list of said leased lands, the sum of fifty (50) cents for the execution of the lease for each tract of land leased as herein provided, 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.

§ 12. WHEN SCHOOL LANDS TO BE APPRAISED—OATH OF APPRAISER.] Between the first day of June and the first day of July, 1890, the board of appraisal of the several counties shall appraise at their actual cash value all the common school lands lying within their respective counties. Each quarter section shall be separately appraised, except that when such lands have been specially subdivided, each smallest subdivision shall be separately appraised. Each member of said county board of appraisal before entering upon his duties shall take and subscribe an oath or affirmation justly and impartially to perform the duties of his office to the best of his judgment and ability, which oath of office shall be filed in the office of the Secretary of State.

§ 13. RETURNS OF APPRAISAL TO BE MADE TO STATE SUPERINTENDENT OF PUBLIC INSTRUCTION.] Between the first day of July and the first day of August, 1890, said boards of appraisal shall make to the State Superintendent of Public Instruction a certified return of their appraisal of said common school lands in the manner and form prescribed therefor by the Board of University and School Lands, setting forth for each tract of land so appraised its proper description, the number of acres therein, its cash value per acre, together with such facts and information concerning the cultivation and occupancy of such tract, and the kind and value of the improvements thereon, as the Board of University and School Lands may require.

§ 14. WHAT LANDS TO BE DESIGNATED FOR SALE—WHEN LANDS TO BE SOLD.] The Board of University and School Lands shall designate for sale from the most valuable lands so appraised in their discretion, an amount not exceeding in the aggregate 100,000 acres, which land so selected and designated by said board shall be sold or offered for sale between June 20, 1891, and July 20, 1891, in the manner prescribed by this act.

§ 15. MANNER OF ADVERTISING AND CONDUCTING SALES.] The Board of University and School Lands shall certify to the county boards of appraisers the lists of lands within their respective counties to be sold or offered for sale, and shall fix and appoint the day and hour for the sale thereof. The county boards of appraisal shall cause to be published for at least sixty days before the day appointed for the sale of said lands, in a newspaper in general circulation in the vicinity of such lands, and in one newspaper published at the seat of government of North Dakota, a notice of said sale, specifying by their proper description the lands to be sold, with the appraised value thereof, and the terms and conditions of such sale.

§ 16. SALE TO BE MADE AT AUCTION.] On the day and hour appointed for said sale the county board of appraisers in each county in which said lands are to be sold shall proceed to sell or offer for sale at public auction to the highest bidder at the door of the court house, said lands so advertised. No tract shall be sold for less than its appraised value, and in no case for less than ten (10) dollars an acre. 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 divisions.

§ 17. HOURS OF SALE.] Said sale shall take place only between the hours of 10 o'clock a. m., and 5 o'clock p. m., but it may be adjourned from day to day, or over Sunday or any legal holiday. All tracts of lands advertised for sale shall be sold or offered for sale in the order in which they occur in the advertisement for sale.

§ 18. TERMS OF SALE—POSSESSION, WHEN MAY BE HAD.] Each tract of land shall be sold upon the following terms, to-wit: The purchaser shall pay one-fifth of the price in cash at the time of sale, 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 6 per cent. payable annually in advance. Purchasers of lands, under lease at the time of purchase, when such leases expire September 1st following, shall be entitled to possession on said September 1st, subject to the right of the lessee to remove the crops from said land. Purchasers of land not leased shall have immediate possession after the approval and confirmation of said sale by the Board of University and School Lands.

§ 19. LIST OF LAND SOLD TO BE CERTIFIED TO STATE AUDITOR—SALES TO BE APPROVED BY STATE BOARD.] Within five days after

such sale shall have been concluded, the county board of appraisers shall certify to the State Auditor a list of the land sold as provided in the preceding sections with the price thereof, and the name of the purchaser of each tract; and the Board of University and School Lands shall approve and confirm the sale of such said tracts, as upon examination of such certified lists and such further information and investigation as shall be deemed necessary, shall be found to have been sold in accordance with the law and without fraud or collusion.

§ 20. BOARD TO CERTIFY LIST APPROVED TO COUNTY BOARD OF APPRAISERS—NOTIFICATION OF SUCCESSFUL PURCHASERS.] The Board of University and School Lands shall return to the county board of appraisers a certified list of the lands so sold, the sale of which shall have been approved as aforesaid, and a duplicate list also to the treasurers of the respective counties. The county boards of appraisers shall thereupon in writing notify the purchasers of said lands respectively of the approval of said sale by said Board of University and School Lands.

§ 21. EXECUTION OF CONTRACTS—PAYMENT OF INTEREST ON DEFERRED PAYMENTS.] Within ten days after such notification to the purchasers of lands the sale of which has been approved as aforesaid, the respective purchasers of said lands shall pay to the treasurers of the respective counties the annual interest on the deferred payments as provided in this act, and shall execute contracts for the purchase of their respective tracts in the form prescribed by the Board of University and School Lands, which contract shall be filed with the Secretary of State. All the deferred payments as they become due, and all the annual interest on such deferred payments, shall be paid to the county treasurers of the respective counties in which such lands so sold are situated. The county treasurers of their respective counties shall pay to the State Treasurer the money received by them as payments of the purchase price of said lands, which said money shall by said State Treasurer be credited to the permanent school fund of the State. They shall also pay to said State Treasurer the amount received as interest on said deferred payments of purchase price of said school lands, which amount shall be credited by the State Treasurer to the account of the interest and income of the permanent school fund.

§ 22. WHEN GOVERNOR TO ISSUE PATENT.] When the lands sold under the provisions of this act shall have been fully paid for, both purchase price and interest thereon as provided in this act, the Governor of the State shall issue to the purchasers of said lands, their heirs or assigns, patents conveying the title of the State to said lands.

§ 23. WHEN LANDS SUBJECT TO TAXATION—CONTRACT OF SALE VOID IF TAX NOT PAID WITHIN ONE YEAR.] The lands contracted to be sold by the State as herein provided shall be subject to taxation from the date of such contract. In case the taxes assessed

against any of said lands any year remain unpaid until the first Monday of October of the following year, then and thereupon the contract of sale for such lands shall become null and void.

§ 24. EXPENSES OF LEASE AND SALE, HOW PAID.] The expense of publishing the notices for the leasing and sale of the school lands as provided for in this act shall be paid by the State Treasurer out of the proceeds of the permanent school fund upon the warrant of the State Auditor. All bills for such publishing shall be verified by the publishers of the newspapers and certified as correct by the auditors of the counties, respectively.

§ 25. EMERGENCY.] An emergency exists, in that if this act shall not take effect until July 1, 1890, it will delay to the purchasers and lessees for at least a year, the cultivation of the tracts sold or leased and thereby postpone the benefit to be derived from this act; therefore this act shall be in force immediately from and after its passage and approval

Approved January 10, 1890.

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## CHAPTER 147.

[S. F. 232.]

### EXTENDING TIME FOR SALE OF SCHOOL LANDS.

(Amendment to preceding chapter,)

AN ACT to Amend Section 14 of An Act Entitled "An Act to Provide for the Leasing and Sale of the Common School Lands of North Dakota," Approved January 10, 1890.

*Be it Enacted by the Legislative Assembly of the State of North Dakota.*

§ 1. AMENDMENT.] That Section 14 of an act entitled "An act to provide for the leasing and sale of the common school lands of North Dakota," approved January 10, 1890, be amended so as to read as follows:

"Sec. 14. WHAT LANDS TO BE DESIGNATED FOR SALE—WHEN LANDS TO BE SOLD.] The Board of University and School Lands shall designate for sale from the most valuable lands so appraised in their discretion an amount not exceeding in the aggregate 100,000 acres, which land so selected and designated by said board shall be sold or offered for sale between April 15, 1891, and June 1, 1891, in the manner prescribed by this act; *Provided, however,* That if any lands so sold have been leased by the Board of University and School Lands, it shall be unlawful for the purchaser of such land to cultivate or in any manner interfere with such lands without the consent of the lessee.

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

§ 3. EMERGENCY.] There being an emergency in that the time fixed by the section proposed to be amended fixes the time of sale too late in the season for the purchaser of such lands to break and prepare the same for crop the year they are purchased; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 20, 1890.

## CHAPTER 148.

[H. F. 52.]

### TO PREVENT TRESPASS UPON SCHOOL LANDS.

AN ACT to Prevent the Trespassing upon School and Public Lands, and to Recover Damages Therefor.

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

§ 1. PENALTY FOR TRESPASS ON SCHOOL LANDS.] Whoever commits any willful trespass upon any of the common school lands or any other lands owned or held in trust or otherwise by this State, either by cutting down or destroying any timber or wood standing or growing thereon, by carrying away any timber or wood therefrom, by mowing or cutting any hay or grass standing or growing thereon, or who injures or removes any buildings, fences, improvements or other property belonging or appertaining to said lands, or unlawfully breaks or cultivates any of said lands, or aids, directs or countenances any such trespass or other injury, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be punished by imprisonment in the county jail not more than one year, or by fine not exceeding five hundred (500) dollars, or by both such fine and imprisonment, in the discretion of the court.

§ 2. WHO HELD TO BE TRESPASSER.] Whoever is occupying, residing upon, or is in possession of any common school lands or any other lands owned or held in trust or otherwise by the State, at the time of the passage, approval and taking effect of this act, and who continues in such occupancy, residence or possession of such land after the fifteenth day of April, 1890, without a valid lease therefor, shall be deemed and held to be a trespasser thereon and guilty of trespass upon such land, and upon conviction thereof shall be punished as provided for in Section 1 of this act.

§ 3. COURTS TO CHARGE GRAND JURIES.] It shall be the duty of every court having jurisdiction of the same especially to charge

the grand jury, at each term of court, to inquire into all offenses against the provisions of this act and present any person who may be guilty of any such offense within their county.

§ 4. TREBLE DAMAGES FOR WILLFUL TRESPASS.] Whoever commits any trespass upon any of the lands owned or held in trust or otherwise by this State, shall be liable in treble damages, in an action of trespass, to be brought in the name of the people of the State, if such trespass is adjudged to have been willful; but single damages only shall be recovered in such action, if such trespass is adjudged to have been casual and involuntary.

§ 5. FORCIBLE ENTRY AND DETAINER, WHEN APPLICABLE.] In case any person holds or continues in possession of any lands mentioned in this title, contrary to the conditions or covenants of any lease or written agreement, he shall be liable to an action of forcible entry and detainer; or any other proper action for the recovery of possession of such lands, and damages for the detention of the same.

§ 6. DUTIES OF STATE'S ATTORNEYS.] The state's attorneys of the several counties shall promptly report to the Board of University and School Lands, all trespasses committed upon said lands which may come to their knowledge, and shall, when directed by the Attorney General, prosecute all actions for any trespass or injury thereto, or for the recovery of possession thereof, or otherwise.

§ 7. DUTY OF ATTORNEY GENERAL.] The Attorney General, whenever requested by the Board of University and School Lands, shall advise with and give his opinion upon all questions of law which are submitted to him by said board relating to the duties of their office, and prosecute, or cause to be prosecuted by the state's attorneys whenever in his opinion the public interest requires it, any person who may be charged with any indictable offense under this act.

§ 8. DAMAGES TO BE PAID OVER TO STATE TREASURER.] All damages recovered for any trespass or other injury upon or to any of the lands mentioned in this act, shall be paid over to the State Treasurer, for the benefit of the fund to which the same properly belongs.

§ 9. EMERGENCY.] Whereas, an emergency exists in the necessity for the immediate protection of the school and public lands of the State, this act shall take effect and be in force from and after its passage and approval.

Approved January 13, 1890.

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# SEALS.

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## CHAPTER 149.

[S. F. 23.]

### STATE, COURT AND OTHER OFFICIAL SEALS PRESCRIBED.

AN ACT Prescribing the Great Seal of the State of North Dakota and the Official Seal of All Courts and Officers of the State who are Authorized to use a Seal.

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

§ 1. STATE SEAL.] The seal prescribed by Section 207 of the State Constitution shall be the Great Seal of the State of North Dakota, and a description in writing of the same shall be deposited and recorded in the office of the Secretary of State and remain a public record.

§ 2. DIMENSION OF SEALS.] Upon every seal of a court or officer of this State required or authorized to have a seal there shall be engraved the words "State of North Dakota," and the name of the court or office in which the seal is to be used, and all such seals, except the Great Seal, shall be one and five-eighths of an inch in diameter.

§ 3. WHEN JUDGE MAY AUTHORIZE USE OF TEMPORARY SEAL.] When any court of record is unprovided with a seal, the judge of said court may authorize the use of any temporary seal, or of any device by way of seal, until the same is provided as aforesaid.

§ 4. NOTARIES PUBLIC MAY USE OLD SEALS TEMPORARILY.] Nothing in this act shall be construed to prevent notaries public from using their present seals; *Provided*, That if the same does not conform to the provisions of Section 2 of this act, it shall not be lawful for any notary public to use the same in case of his reappointment.

§ 5. REPEAL.] All acts and parts of acts of the Legislative Assembly of the Territory of Dakota inconsistent herewith are hereby repealed.

§ 6. EMERGENCY.] Whereas, the public interests demand that an official seal for the several State and county officers, and for the several courts of the State, should be promptly prescribed by law, therefore this act shall take effect and be in force from and after its passage and approval.

Approved January 18, 1890.

# SEED GRAIN.

## CHAPTER 150.

[H. F. 163.]

### PROVIDING FOR LIENS ON CROPS FOR PURCHASE PRICE OF SEED GRAIN.

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. 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 hereinafter 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 crop 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.

§ 2. APPLICATIONS, WHEN TO BE FILED AND WHAT TO CONTAIN—WHEN INDEBTEDNESS FOR SEED TO BE TAXED AGAINST LAND.] Any person desiring to procure seed grain upon credit, under the provisions of this act, shall file his application therefor on or before the fifteenth day of March in the year in which he desires to procure such seed grain, with the auditor or clerk of the county in which is situated the land he desires to seed. Said applications shall be in writing, or partly in print and partly in writing, shall be subscribed and sworn to before the county auditor or county clerk, or some other officer authorized to administer oaths, and shall contain, among other things, a statement of the number of acres the applicant has plowed and prepared for seeding; how many acres the applicant intends to have plowed and ready for seeding; how many bushels and what kinds of grain he will re-



quire to seed the ground so prepared or to be prepared; a true statement of all the real and personal property owned by the applicant and of the incumbrances thereon; the nature of his title to the realty which is to be sown to crop; that the applicant, by making and filing his said application, intends to agree and does thereby agree to and with any person, co-partnership, association or corporation that may furnish him seed grain pursuant to this said application, that such party shall have a first lien upon the crop produced from said seed grain; that if the indebtedness incurred in the purchase of said seed grain, together with interest thereon at 7 per cent., be not paid on or before the the first day of October next after the furnishing of such seed grain, the amount of said indebtedness and accrued interest shall be taxable against all the real and personal property of said applicant; that the county auditor or county clerk may and shall enter and levy the amount of said indebtedness as a tax upon the tax lists of said county against all the property of the applicant; that the collection thereof may be enforced in manner and form as the collection of State and county taxes are enforced; that at any time on or before October 15th the party furnishing said seed grain may by himself or agent, file with the county auditor or county clerk of the proper county, a verified statement of the amount due from any applicant under the provisions of this act, stating the name of the applicant and the number of his application, and thereupon it shall be the duty of said auditor or clerk to cause the amount of such indebtedness to be entered upon the tax lists of said county for that year as a tax against the real and personal property of said applicant and of the county treasurer of the county to collect the same in manner and form as other taxes are collected; *Provided, however,* That said tax shall be entered in a column separate and distinct from all other taxes, and all monies collected by the county treasurer under the provisions of this act shall be kept separate from all other monies, and shall be paid over by him to the party for whose benefit it is collected or to his order.

§ 3. APPLICATIONS, HOW EXECUTED—ENDORSEMENTS TO BE MADE BY COUNTY AUDITOR.] All applications filed under the provisions of this act shall be executed in duplicate and consecutively numbered by the county auditor or county clerk, for which services he shall receive a fee of ten (10) cents for each application and duplicate thereof, to be paid by the applicant, and when seed grain is furnished pursuant to any application, there shall be indorsed on such application and the duplicate thereof, a statement of the quantity of seed furnished, by whom furnished, the value thereof, and the description of the land upon which the seed grain is to be sown, which indorsement shall be subscribed by the parties or their authorized agents, and shall be conclusive evidence of the facts stated in the indorsement. All indebtedness incurred under the provisions of this act shall bear interest at 7 per cent. and the

principal and interest shall become due and payable on October 1st next ensuing, unless a different time be agreed upon between the parties and is indorsed upon the application and duplicate thereof. But if a date later than October 25th be agreed upon, then the amount of said indebtedness shall not be entered or levied as a tax as herein provided until the succeeding year.

§ 4. APPLICATIONS, WHERE FILED—WHEN TO BE CONSIDERED LIEN ON CROPS.] One of the said applications shall remain on file in the county auditor or clerk's office, and the duplicate thereof shall be filed in the office of the register of deeds, and from the date of the filing thereof in the office of the register of deeds shall be full and sufficient notice to all persons of the existence of the lien upon the crop as hereinbefore provided.

§ 5. DUTY OF REGISTER OF DEEDS TO FILE—FEE.] It shall be the duty of the register of deeds to file and enter said applications in the manner now required by law for the filing and entry of chattel mortgages, and he shall be entitled to a fee of ten (10) cents for each application so filed.

§ 6. PENALTY FOR FALSE PRETENSES.] Any person obtaining seed grain under the provisions of this act, who shall sell or otherwise dispose of the same, or any part thereof, or shall use the same or any part thereof for any other purpose than that specified in his application, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by imprisonment in the county jail not exceeding six months, or by fine not exceeding five hundred (500) dollars, or by both such fine and imprisonment.

§ 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, threshing and marketing the same to pay the debt aforesaid, 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 assign.

§ 8. HOW UNORGANIZED COUNTIES GOVERNED BY PROVISIONS OF THIS ACT.] Where persons desiring to obtain seed grain under the provisions of this act reside in unorganized counties, or the land to be seeded is situated in unorganized counties, applications shall be filed in the county to which such unorganized counties are attached for record or judicial purposes, and such filing shall have the same force and effect as if said counties were organized and the filing made in the proper county.

§ 9. EMERGENCY.] This act shall take effect and be in force from and after its passage and approval, in order that the settlers

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of this State who are without means to obtain seed grain for the ensuing crop season may do so in proper time.

Approved February 13, 1890.

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## CHAPTER 151.

[H. F. 309.]

### EXTENDING TIME IN WHICH TO MAKE APPLICATION FOR SEED GRAIN.

(Amendment to Preceding Chapter.)

AN ACT Entitled "An Act to Amend 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,'" Approved February 13, 1890.

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

§ 1. AMENDMENT.] Section 2 of 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, approved February 13, 1890," is hereby amended to read as follows:

"Sec. 2. APPLICATION, WHEN TO BE FILED AND WHAT TO CONTAIN—WHEN INDEBTEDNESS FOR SEED TO BE TAXED AGAINST LAND.] Any person desiring to procure seed grain upon credit, under the provisions of this act, shall file his application therefor on or before the fifteenth day of April in the year in which he desires to procure such seed grain, with the auditor or clerk of the county in which is situated the land he desires to seed. Said application shall be in writing, or partly in print and partly in writing, shall be subscribed and sworn to before the county auditor or county clerk, or some other officer authorized to administer oaths, and shall contain, among other things a statement of the number of acres the applicant has plowed and prepared for seeding; how many acres the applicant intends to have plowed and ready for seeding; how many bushels and what kinds of grain he will require to seed the ground so prepared or to be prepared; a true statement of all the real and personal property owned by the applicant and of the incumbrances thereon; the nature of his title to the realty which is to be sown to crop; that the applicant, by making and filing his said application, intends to agree and does thereby agree to and with, any person, co-partnership, association or corporation that may furnish him seed grain pursuant to his said application, that such party shall have a first lien upon the crop produced from said seed grain; that if the indebtedness incurred

in the purchase of said seed grain, together with interest thereon at 7 per cent., be not paid on or before the first day of October next after the furnishing of such seed grain, the amount of said indebtedness and accrued interest, shall be taxable against all the real and personal property of said applicant; that the county auditor or county clerk may, and shall enter and levy the amount of said indebtedness as tax upon the tax lists of said county against all the property of the applicant; that the collection thereof may be enforced in manner and form as the collection of State and county taxes are enforced; that at any time on or before October 15th the party furnishing said seed grain may by himself or agent, file with the county auditor or county clerk of the proper county a verified statement of the amount due from any applicant under the provisions of this act, stating the name of the applicant and the number of his application, and thereupon it shall be the duty of said auditor or clerk to cause the amount of such indebtedness to be entered upon the tax lists of said county for that year as a tax against the real and personal property of said applicant and of the county treasurer of the county to collect the same in manner and form as other taxes are collected; *Provided, however,* That said tax shall be entered in a column separate and distinct from all other taxes, and all monies collected by the county treasurer under the provisions of this act shall be kept separate from all other monies and shall be paid over by him to the party for whose benefit it is collected or to his order; *Provided,* That residents of unorganized counties may apply for relief under the provisions of this act to the county to which said unorganized county is attached for judicial purposes.

§ 3. 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 purpose for which it is intended, therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 17, 1890.

## CHAPTER 152.

[S. F. 115.]

AUTHORIZING COUNTIES TO ISSUE BONDS TO PROCURE SEED  
GRAIN.

AN ACT Authorizing Counties to Issue Bonds to Procure Seed Grain for  
Needy Farmers Resident Therein.

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

§ 1. BONDS, HOW ISSUED—DENOMINATION, RATE OF INTEREST. ]  
In any county of the State where the crops for any preceding year have been a total or partial failure by reason of drouth, hail or other cause, it shall be lawful for the board of county commissioners of such county to issue the bonds of the county under and pursuant to the provisions of this act, and with the proceeds derived from the sale thereof, to purchase seed wheat for the inhabitants thereof who are in need of seed grain and are unable to procure the same, whenever said board shall be petitioned in writing so to do by not less than 100 freeholders resident in the county; and said board at a meeting called as hereinafter provided to consider said petition, shall by a majority vote determine that the prayer of the petitioners should be granted; *Provided*, That all such petitions shall be filed with the county auditor, or county clerk, on or before the twenty-eighth day of February; and thereupon it shall be the duty of said officer to forthwith call a meeting of the board of county commissioners of his county to consider said petitions; and, *Provided, further*, That the total amounts of bonds issued by any county under the provisions of this act shall not, with the then existing indebtedness of the county, exceed the limit of indebtedness fixed by the Constitution in such case; that said bonds shall be in denominations of five hundred (500) dollars; shall bear a rate of interest not exceeding 7 per cent. per annum, payable semi-annually at such place and times as shall be determined by the board, and that all bonds issued under the provisions of this act shall become due and payable in not less than five nor more than ten years from the date thereof, the date of maturity to be fixed by the county board at the time of the issuance thereof, within the above limitation.

§ 2. BONDS TO BE ENDORSED. ] Such bonds shall be signed by the chairman of the board of county commissioners and be attested by the county auditor, or county clerk, as the case may be, who shall affix the seal of the county thereto, and shall have endorsed thereon a certificate signed by the county auditor or county

clerk, stating that said bonds are issued pursuant to law and are within the debt limit.

§ 3. BONDS, HOW SOLD.] It shall be the duty of said board to receive sealed proposals for the purchase of said bonds after giving notice for ten days in three newspapers of general daily circulation published as follows: One in the city of St. Paul, in the state of Minnesota; one in the city of Bismarck, in the State of North Dakota; and one in the county where the bonds are to be issued, if there be one published in such county, if not, then publication may be made in a weekly paper published in said county, if there be one so published, and said bonds shall be sold to the highest bidder for cash; *Provided*, The same shall not be sold for less than their par value; and, *Provided, further*, That the said board may reject all bids and postpone the sale of said bonds for a time not exceeding fifteen days.

§ 4. PROCEEDS, HOW PAID OUT.] The proceeds arising from the sale of said bonds shall be paid by the purchaser thereof, to the county treasurer of the county, or to his authorized agent, at the time of the delivery thereof, and such proceeds shall be paid out only on the order of the board of county commissioners.

§ 5. ADDITIONAL BOND OF TREASURER.] It shall be the duty of said board to require the county treasurer to give an additional bond with sureties to be approved by the board, in a sum to be determined by said board, before the proceeds of said bonds are paid into the treasury.

§ 6. TAX—BOND REGISTRY—BOARD MAY ISSUE WARRANTS INSTEAD OF BONDS, WHEN.] For the purpose of securing prompt payment of the principal and 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. No tax or fund provided for the payment of such bonds, either principal or interest, shall at any time be used for any other purpose; *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 of 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 said 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.

§ 7. FUNDS, HOW TO BE USED.] The fund arising from the sale of said bonds shall be applied exclusively by the said board for the purchase of seed grain for residents of the county who are poor and unable to procure the same; *Provided*, That not more than 150 bushels of wheat or its equivalent in any grain shall be furnished to any one person.

§ 8. WHO MAY HAVE BENEFIT OF ACT.] All persons entitled to, and wishing to avail themselves of the benefit of this act, shall file with the county auditor, or county clerk, of the county where said applicant resides, on or before the first day of March, an application duly sworn to before said county auditor, or county clerk, or some other officer authorized to administer oaths. Said application shall contain a true statement of the number of acres the applicant has plowed or prepared for seeding; how many acres the applicant intends to have plowed and prepared for seeding; how many bushels and what kind of grain he will require to seed the ground so prepared as aforesaid; how many bushels of grain the applicant harvested in the preceding year; that the applicant has not procured and is not able to procure the necessary seed grain for the current year; that he desires the same for seed and no other purpose and that he will not sell or dispose of the same or any part thereof, but will use the same and the whole thereof in seeding the land so prepared or to be prepared for crop. Said application shall also contain a true and full description of all the real and personal property owned by the applicant, and the incumbrances thereon; and a true description by government subdivisions of the land upon which the applicant intends to sow said seed grain. All applications filed under the provisions of this act shall be consecutively numbered and shall be open to public inspection, and no application shall be considered by the board of county commissioners except such as have been made and filed in the manner prescribed in this section; *Provided*, That the board of commssioners may in their discretion consider any application although made after the time so specified.

§ 9. BOARD OF EXAMINATION AND ADJUSTMENT.] The board of county commissioners of each county issuing bonds under the provisions of this act are hereby appointed and constituted a board of examination and adjustment of the applications for seed grain filed under the preceding section, and it shall be the duty of said board to meet at the county auditor or clerk's office

on the first Tuesday in March, or as soon thereafter as possible, to examine and consider separately each application filed under the provisions of this act, and to determine who are entitled to the benefits thereof, and the amount to which each applicant is entitled, and said board shall on or before the tenth day of March, deliver to and file with the county auditor, or county clerk, its adjustment of the said applications, which shall be signed by the chairman of the board.

§ 10. HOW GRAIN TO BE ISSUED TO APPLICANT—VALUE TAXED AGAINST LAND, WHEN.] The county auditor or county clerk of each county shall as soon as the county commissioners shall have performed the duty prescribed in the preceding section, issue to each applicant demanding it, an order for the number of bushels of each kind of seed grain which has been allowed to said applicant, unless otherwise directed by the board, or the chairman thereof; *Provided, however,* That said order shall not be delivered until said applicant shall have signed a contract in duplicate, attested by the county auditor or county clerk, to the effect that said applicant for and in consideration of . . . bushels of seed grain received from . . . county, promises to pay to said county . . . dollars, the amount of the cost of said seed grain; that said sum shall be taxable against all the real and personal property of said applicant; that such tax shall be levied by the county auditor, or county clerk, of his county, and collected as other taxes are collected under the laws of this State; that the amount of such indebtedness shall become due and payable on the first day of October in the year in which said seed grain is furnished, together with interest on such amount from the first day of April of that year, at the rate of 7 per cent. per annum, and if said indebtedness be not paid on or before the twentieth day of October of that year, it shall then be the duty of the county auditor, or county clerk, of the said county, to cause the amount of said indebtedness to be entered upon the tax lists of said county for that year, as a tax on the land on which said seed wheat was sown, and upon any other land owned by the applicant, to be collected as other taxes are, and the sum so entered and levied shall be a lien upon the real estate owned by such person until said indebtedness is fully paid, when it shall be the duty of the proper officer to cancel the same.

§ 11. LIEN ON CROP.] Upon the filing of 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 person receiving seed grain to the amount of the sum then due to the county upon said contract, 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.



§ 12. PAYMENT, WHEN TO BE MADE.] Each and every person who has received seed grain under the provisions of this act, shall, as soon as his crops for the year wherein payment is to be made are harvested and threshed, market a sufficient amount of grain to pay the amount then due, on his contract and pay the same over to the treasurer of his county.

§ 13. PENALTY.] 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 the 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, threshing and marketing the same to pay the debt aforesaid, shall be deemed a conversion thereof, and treble damages may be recovered against the person so converting the same by the county furnishing said seed.

§ 14. INFORMATION, WHO TO GIVE.] It shall be the duty of the constables and town clerks of the towns, and the county commissioners, sheriffs, and state's attorneys of the counties furnishing seed grain under the provisions of this act, having any knowledge of the violation of its provisions, to make complaint thereof to a justice of the peace, and said justice shall thereupon issue a warrant for the arrest of the offender, and proceed to hear and determine the matter, or to bind the offender over to appear before the grand jury, as the case may be.

§ 15. GRAIN, HOW DISTRIBUTED—APPLICATION, HOW RECEIVED.] The county commissioners of every county proposing to distribute seed grain under the provisions of this act shall advertise such intention in such manner and for such length of time prior to the first day of March as is possible for them to do, giving notice that all applications must be filed with the county auditor, or county clerk, by the first day of March; *Provided*, That no distribution

of seed grain under the provisions of this act shall take place prior to the tenth day of March. If more seed grain is applied for than can be supplied by the commissioners under the provisions of this act, a *pro rata* distribution shall be made by them among those who shall have been found entitled to the benefits of this act. The commissioners shall have the right to refuse any application which they may deem improper to grant, and they may revise their adjustment of applications at any time before final distribution.

§ 16. DUTIES OF COMMISSIONERS IN RELATION TO DISTRIBUTION OF GRAIN.] It shall be the duty of the commissioners providing seed grain under the provisions of this act, to purchase the same at the lowest price at which suitable grain can be obtained, and to furnish the same to applicants at the actual cost thereof to the commissioners, with transportation and handling charges added, if any there be, and any person requiring or extorting from any applicant a greater price shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by fine or imprisonment, or both, as the court may determine.

§ 17. SINKING FUND TO PAY BONDS.] All money received by the county treasurer in payment of debts incurred under the provisions of this act, shall be paid into, and become a part of the sinking fund herein provided for, and be used exclusively in the purchase or payment of bonds issued hereunder.

§ 18. OPTION.] Said board may at any time, with the concurrence of the owners thereof, pay and retire any of the bonds issued under the provisions of this act out of the funds provided for that purpose, at not more than the par value thereof with accrued interest.

§ 19. TAX, WHEN NOT BE LEVIED.] In case a sufficient fund has been paid into the county treasury in any one year, as provided in Section 10 of this act, or on or before November 1st, to meet the interest and sinking fund provided for in this act, then there shall be no tax assessed for such purposes in that year, and in no year shall there be a greater sum assessed than will, together with the balance at that date in the treasury belonging to the said seed grain fund, be sufficient to meet said interest and sinking fund promptly for that year.

§ 20. EMERGENCY.] As there are settlers who are unable to procure seeds for their farms for the coming spring, and an emergency exists, this act shall take effect and be in force immediately after its passage and approval by the governor.

Approved February 14, 1890.

## CHAPTER 153.

[H. F. 355.]

## EXTENDING TIME FOR APPLICATION FOR SEED GRAIN.

(Amendment to Preceding Chapter.)

AN ACT Entitled "An Act to Amend an Act Entitled 'An Act Authorizing Counties to Issue Bonds to Procure Seed Grain for Needy Farmers Resident Therein,'" Approved February 14, 1890.

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

§ 1. AMENDMENT.] That Section 1 "of an act authorizing counties to issue bonds to procure seed grain for needy farmers resident therein, approved February 14, 1890," be amended to read as follows:

"In any county of the State where the crops for any preceding year have been a total or partial failure by reason of a drouth, hail or other cause, it shall be lawful for the board of county commissioners of such county to issue the bonds of the county under and pursuant to the provisions of this act, and with the proceeds derived from the sale thereof, to purchase seed wheat for the inhabitants thereof who are in need of seed grain and are unable to procure the same. Whenever said board shall be petitioned in writing so to do by not less than 100 freeholders resident in the county, and said board at a meeting called as hereinafter provided, to consider said petition shall, by a majority vote determine that the prayer of the petitioners should be granted; *Provided*, That all such petitions shall be filed with the county auditor, or county clerk, on or before the fifteenth day of April; and thereupon it shall be the duty of said officers to forthwith call a meeting of the board of county commissioners of his county to consider said petitions; and, *Provided further*, That the total amounts of bonds issued by any county under the provisions of this act, shall not with the then existing indebtedness of the county exceed the limit of indebtedness fixed by the Constitution in such case; that said bonds shall be in denominations of five hundred (500) dollars; shall bear a rate of interest not exceeding 7 per cent. per annum, payable semi-annually, at such place and times as shall be determined by the board, and that all bonds issued under the provisions of this act shall become due and payable in not less than five nor more than ten years from the date thereof, the date of maturity to be fixed by the county board at the time of the issuance thereof within the above limitation.

§ 2. EMERGENCY.] As there are settlers who are unable to procure seed for their farms for the coming spring, unless the time for petitions is extended, therefore, an emergency exists, and this act shall take effect and be in force immediately after its passage and approval.

Approved March 20, 1890.

## CHAPTER 154.

[H. F. 306.]

PROVIDING FOR LIEN FOR FEED FURNISHED NEEDY FARMERS.

(Amendment to Chapter No. 152.)

AN ACT to Amend an Act Entitled "An Act Authorizing Counties to Issue Bonds to Procure Seed Grain for Needy Farmers Resident Therein," Approved February 14, 1890.

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

§ 1. AMENDMENT.] That Section 7 be amended to read as follows:

"The fund arising from the sale of said bonds shall be applied exclusively by the said board for the purchase of seed grain for residents of the county who are unable to procure the same; *Provided*, That not more than 150 bushels of wheat, or its equivalent in other grain, shall be furnished to any one person; *Provided, further*, That in any county in which it is necessary to procure seed grain, under the provisions of this act, and the parties taking advantage of the same are unable to obtain feed for their stock for the putting in of said seed grain, the county commissioners may, in their discretion, purchase and deliver to such parties, who are unable to procure in any other way such amount of feed, as will, in their judgment, enable said parties to put in their seed; such feed to be furnished at actual cost; the amount to be paid for such feed to become a part of the seed lien on the crop raised from the seed furnished to such party under the provisions of this act."

§ 2. EMERGENCY.] Whereas, an emergency exists in that there are persons who are unable to procure feed for their stock for the putting in of their seed the coming spring, this act shall take effect and be in force immediately after its passage and approval by the governor.

Approved March 7, 1890.

# SHEEP HUSBANDRY.

## CHAPTER 155.

[H. F. 24.]

### INDEMNIFICATION FOR DAMAGE DONE BY DOGS.

AN ACT Entitled "An Act Indemnifying the Owners of Seeep in Case of Damage by Dogs, and Creating a Fund to Pay for the Same by a Tax on Dogs."

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

§ 1. ASSESSORS TO MAKE LIST.] That each county and township assessor in this State when making the assessment shall annually make a list of the names of all persons who own or keep a dog or dogs, and set opposite the name of such owner or keeper the number of dogs he or she has in his or her possession, or that is or are kept on his or her premises, which list shall be returned by such assessor to the auditor of the county in which said list is taken as soon as the assessment is completed.

§ 2. LICENSE FEE.] The county auditor shall charge upon the collector's book against the name of each person reported and returned as the owner or keeper of a dog or dogs, as a license fee the sum of one (1) dollar for each male and two (2) dollars for each female dog owned or kept by such person, which fee shall be collected at the same time and in the same manner as taxes upon personal property. In counties not under township organization, the collector shall pay the amount received from the license aforesaid to the treasurer of his county, and in counties under township organization the sum so collected in each town shall be paid by the collector to the supervisor of his town, who shall first give to the people of the State of North Dakota, for the use of the inhabitants of his town, a bond with at least two sureties to be approved by the board of supervisors of his county, in double the sum of such license fees in his town, conditioned that he will faithfully pay out said fund as hereinafter provided. Said bond shall be filed and remain in the office of the county auditor of the proper county.

§ 3. LICENSE FUND, HOW PAID OUT.] It shall be the duty of the county treasurers and supervisors having the custody of the funds collected as license fees as aforesaid, to pay the same out in the manner following:

First. By such county treasurers to the owners of sheep in

their respective counties and by the supervisors to the owners of sheep in their respective towns, who shall make proof to them before the first Monday of March in each year of loss or injury to sheep by dogs, other than their own, the full amount of the loss or injury so proved, if there are funds sufficient to pay the same; if there be not sufficient funds to pay such loss or injury in full, then the owners of sheep so sustaining loss or injury as aforesaid, and making proof thereof as in this act provided, shall be paid out of such fund in proportion to his or her loss or injury, or his or her pro-rata share thereof.

Second. If there be a balance of said license fund left in the hands of the county treasurer or town supervisor after paying the losses and injuries sustained as aforesaid, such balance shall be turned into the current county funds in counties not under township organization, and be appropriated as the county board may direct, and by the supervisors of the town in counties under township organization, into the general fund of the town, to be disposed of as such town shall see proper.

§ 4. PAYMENT NOT TO BAR ACTION—WHEN.] The payment to any owner of sheep of money for damages resulting from loss or injury to his or her sheep, shall not be a bar to an action by such owner against the owner or keeper of the dog or dogs committing such injury or causing such loss for the recovery of damages therefor. The court or jury before whom such action is tried shall ascertain from evidence what portion if any, of the damages sought to be recovered in such action has been paid to the plaintiff in such action by the county treasurer or supervisor of the proper county or town; and in case the plaintiff in such action recovers damages, the court shall enter judgment against the defendant in the name of the plaintiff, for the use of the proper county or town, as the case may be, for the amount which the plaintiff has received on account of such damages from the county treasurer, or supervisor of the proper county or town, if such recovery shall equal or exceed the amount so received by such plaintiff from the county treasurer or town supervisor of his county or town; and the residue of such recovery, if any there be, shall be entered in the name of the plaintiff in such action to his own use; if the amount of recovery in such action shall not equal the amount previously paid to the plaintiff on account of such damages by the county treasurer, or the town supervisors of the proper county or town, then the judgment shall be entered as aforesaid for the use of such county or town for the full amount of such recovery. Writs of execution issued upon such judgment shall show on their face what portion of the judgment is to be paid to the proper county or town, and what portion is to be paid to the plaintiff in such action, and the judgment when collected shall be paid over to the parties entitled thereto, in their proper proportions.

§ 5. PROOF OF DAMAGES—PROCEEDINGS BEFORE JUSTICE—FILING COPY OF JUDGMENT.] No person having sheep killed or injured as

aforesaid, shall be entitled to receive any portion of the funds herein provided for, unless he shall appear before the nearest justice of the peace who can be found, within three days from the time when such injury or damage is discovered, and make affidavit stating the number of sheep killed or injured, that the name of the owner or keeper of the dog or dogs which destroyed or injured the applicant's sheep is or are unknown, or if known, then stating the name, and that such owner or keeper is insolvent and that the applicant has recovered no compensation from the owner or keeper, or any other person for the damage sustained, and thereupon the said justice of the peace shall enter the same on his docket in the same manner as other suits are docketed, and shall proceed to hear testimony of one or more freeholders as to the number and value of the sheep killed or injured, and from such evidence shall find the damages sustained, and shall make a record of his finding as of judgments in other cases. He shall upon the request of the applicant in such proceeding, make a certified copy from his docket of said proceedings, and the same with the original affidavit of the applicant shall be filed with the county treasurer in counties not under township organization, and in counties under township organization with the supervisor of the town in which such sheep were injured or destroyed, within ten days thereafter, and when so filed shall be sufficient evidence of loss or damage by dogs as aforesaid, and the license fund as aforesaid, shall be paid out thereupon on the first Monday of March in each year as hereinbefore provided.

§ 6. FEES OF JUSTICES AND WITNESSES.] The justice of the peace before whom such application is made, shall receive for hearing and certifying the same the sum of one (1) dollar and the witnesses, not exceeding three, shall be allowed fifty (50) cents each. All fees given for services under this act shall be paid out of the fund created by this act prior to its disposition as provided in the third section of this act.

§ 7. MEANING OF DOG.] The word "dog" as used in this act shall be held and construed to mean all animals of the canine species, both male and female.

§ 8. OWNER LIABLE.] The owner of any dog or dogs shall be liable in an action on the case for all damages that may accrue to any person or persons in this State, by reason of such dog or dogs killing, wounding or chasing any sheep or other domestic animal belonging to such other person or persons; and when the amount of such damages does not exceed two hundred (200) dollars, the same may be recovered by an action before a justice of the peace.

§ 9. WHEN DOG MAY BE KILLED.] If any person shall discover any dog or dogs in the act of killing, wounding, or chasing sheep in any portion of this State, or shall discover any dog or dogs under such circumstances as to satisfactorily show that such dog or dogs has been recently engaged in killing or chasing sheep

for the purpose of killing them, such person is authorized to immediately pursue and kill such dog or dogs.

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

§ 11. EMERGENCY.] Inasmuch as there is no provision for the protection of sheep in the existing laws and an emergency existing; therefore, this act shall be in force from and after its passage and approval,

Approved March 31, 1890.

## CHAPTER 156.

[H. F. 194.]

### SHEEP INSPECTOR.

AN ACT to Amend Sections 1, 2, 3 and 4, of Chapter 135, of the General Laws of 1885, Entitled "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. AMENDMENT.] That Section 1 of Chapter 135 of the General Laws of 1885 be amended to read as follows:

"Sec. 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, and any inspector may act in an adjoining county having no inspector, or any unorganized counties attached thereto for judicial purposes upon the request of the commissioners of said organized county. Such inspector may appoint as many deputies as he may deem necessary."

§ 2. AMENDMENT.] That Section 2 of Chapter 135 of the General Laws of 1885 be amended to read as follows:

"Sec. 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 county clerk in which such inspection was made, 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; *Provided*, That in case of the removal of the flock ten miles from the range of any other sheep as hereinafter provided, he shall only make one inspection every three months."

§ 3. AMENDMENT.] That Section 3 of Chapter 135 of General Laws of 1885 be amended to read as follows:

"Sec. 3. ARRIVAL OF FLOCKS OF SHEEP IN STATE TO BE NOTIFIED TO INSPECTOR—PENALTY.] And upon the arrival of any flock of sheep into the State the owner or agent thereof shall immediately report them to the inspector of the county in which such sheep are located for inspection, and the inspector shall inspect and report as provided in Section 2 of this act, and in case of failure from any cause of the owner or agent of such flock of sheep to report them for inspection, a penalty of one hundred (100) dollars shall be imposed on said owner or agent for each offence, by any court of competent jurisdiction, which penalty when collected shall be paid into the county treasury for the use of the sheep inspector's fund, and any judgment for such penalty shall be a lien upon such flock."

§ 4. AMENDMENT.] That Section 4 of Chapter 135 of the General Laws of 1885 be amended to read as follows:

"Sec. 4. DUTY OF OWNER OR AGENT OF DISEASED FLOCK.] 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 ten miles of any other flock of sheep, and said sheep shall continue to be herded under the above restrictions until upon inspection they shall be reported free from such diseases.

§ 5. SCABBY SHEEP NOT TO ENTER STATE OR BE REMOVED FROM ONE COUNTY TO ANOTHER—PENALTY.] In no case shall any scabby sheep be allowed to be removed from anyone point to another within any of said counties, or from one county to another, or any sheep that have within one year been scabby, without a written certificate from the said sheep inspector; *Provided*, Such sheep may be transferred and removed with the written consent of all sheep owners or managers along the route, and in the vicinity of the proposed location except those mentioned in the preceding section; *Provided*, That in no case shall any sheep infected with scab or any infectious diseases be allowed to enter the State, and any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not

less than fifty (50) dollars, nor more than two hundred (200) dollars for each and every offense.

Approved March 31, 1890.

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## CHAPTER 157.

[H. F. 31.]

### BOUNTY FOR WOLF SCALPS.

AN ACT to Amend Sections 1, 2 and 3 of Chapter 63 of the General Laws of 1881, Relating to Sheep Husbandry.

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

§ 1. AMENDMENT.] That Sections 1, 2 and 3 of Chapter 63 of the General Laws of 1881 be amended to read as follows:

Sec. 1. BOUNTY FOR KILLING WOLVES.] The county commissioners of each county in the State of North Dakota may upon the petition of fifty stock raisers offer a bounty not to exceed three (3) dollars and not less than one (1) dollar for each and every wolf killed within the limits of their county.

Sec. 2. CLAIMANT TO MAKE AFFIDAVIT AND PRODUCE SCALP.] Before payment of said bounty the applicant therefor must subscribe and make oath before the county clerk of the county in which the wolf was killed, setting forth that the wolf was killed within said county, giving the date thereof, and by whom, and that the two ears of the scalp thereof which are produced before said county clerk are the ears of such wolf; *Provided*, No claim shall be allowed unless the applicant exhibits and furnishes to such county clerk at the time of making such affidavit, the two ears of the wolf killed attached to such skin which shall then and there in the presence of such county clerk be detached from such wolf skin.

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

§ 2. EMERGENCY.] Whereas, an emergency exists in that there is now no protection to sheep growers from the ravages of wolves; therefore, this act shall take effect from and after its passage.

Approved March 20, 1890.

# STATE INSTITUTIONS.

## CHAPTER 158.

[H. F. 324.]

### ACADEMY OF SCIENCE AT WAHPETON.

AN ACT to Locate, Establish and Maintain the North Dakota Academy of Science and to Provide for the Government Thereof.

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

§ 1. ACADEMY OF SCIENCE—LOCATION.] A State scientific school, to be known as the North Dakota Academy of Science, the special object of which shall be the instruction in such arts and sciences as shall hereafter be determined by the board of education and shall embrace a preparatory department where all the various branches shall be taught, pertaining to a good common school education, is hereby permanently located at the city of Wahpeton, in the county of Richland, State of North Dakota.

§ 2. MANAGEMENT.] The said school shall be under the direction of a board of education, and shall be governed and supported as hereinafter provided.

§ 3. BOARD, HOW APPOINTED.] Said board of education shall consist of five members, three of whom shall be appointed by the Governor and by and with the consent of the Senate, one of whom shall hold his office for six years, another for four years, and another for two years. The Governor shall designate which person shall hold his office for six years, which for four years and which for two years. The State Treasurer and Superintendent of Public Instruction shall, by virtue of their offices, be members of said board; the State Treasurer, by virtue of his office, shall be treasurer of said board, and the members thereof shall annually elect from their number a president and secretary. It shall be the duty of the secretary to keep an exact and detailed account of the doings of said board, and he shall make such reports to the Legislative Assembly as are required by this act.

§ 4. POWERS OF BOARD.] Said board of education shall have power to appoint a principal and assistant to take charge of said school, and such other teachers and officers as may be required in said school, and fix the salaries of each and prescribe their several duties. They shall also have power to remove either the principal, assistant or teachers, and appoint others in their stead. They shall prescribe the various books to be used in said school, and shall

make all the regulations and by-laws necessary for the good government and management of the same, and shall have power to procure all necessary apparatus, instruments and appurtenances for instruction of the students in said school.

§ 5. RULES AND REGULATIONS.] The said board of education shall ordain such rules and regulations for the admission of pupils to said school as they shall deem necessary and proper. Every applicant for admission shall undergo an examination in such manner as shall be prescribed by the board. And the board may in their discretion require an applicant for admission into said school to pay or secure to be paid such fees or tuition as said board shall deem reasonable.

§ 6. OATH AND BOND—PLANS AND SPECIFICATIONS.] Before entering upon the duties of their office, each member of the said board of education shall take and subscribe an oath, as follows:

“I do solemnly swear or affirm that I will support the Constitution of the United States and the Constitution of the State of North Dakota and will faithfully discharge the duties of board of education of the North Dakota Academy of Science according to the best of my ability; that I have not received, and will not knowingly and intentionally, directly or indirectly, receive any money or other consideration from any source whatever, for any vote or influence I may give or withhold, or for any other official act I may perform as a member of such board, except as herein provided.”

And also execute a bond in the penal sum of \$3,000, for the use and benefit of the State of North Dakota, with two or more good and sufficient sureties, to be approved by the Governor, and be filed with the Secretary of State, conditioned upon the faithful performance of his duties, and the honest and faithful disbursement of and accounting for all monies which may come into his hands under the provisions of this act. The said board, having taken the foregoing oath and executed the bond as aforesaid, is hereby empowered and required to cause to be prepared suitable plans and specifications by a competent architect; such plans shall contemplate the erection of a building or buildings, which shall accommodate not less than 100 nor more than 300 scholars, and shall be accompanied by specifications and by a detailed estimate of the amount required and description of all material and labor required for the entire and full completion of the buildings, and no plan shall be adopted that contemplates the expenditure of more money for its completion than the amount reasonably necessary to carry out the objects of said institution.

§ 7. SUPERINTENDENT OF CONSTRUCTION.] That the said board of education shall employ the architect whose plans and specifications are accepted, to act as a superintendent of construction, who shall receive for such plans and specifications, and for superintending construction, such pay as the board shall by agreement

determine, which pay shall not exceed an amount equal to 5 per cent. of the estimated cost of said buildings.

§ 8. PROPOSALS FOR BUILDING—LANDS FOR SITE TO BE CONVEYED TO STATE.] Whenever the said plans and specifications shall have been approved and adopted by a majority of the board, the board of education shall cause to be inserted in at least two of the daily newspapers published in the State of North Dakota, and having a general circulation therein, an advertisement for sealed bids for the construction of the buildings herein authorized, and they shall furnish a printed copy of this act, and of the plans and specifications to all persons applying therefor; *Provided*, Said board may advertise as aforesaid whenever there shall be a sufficient amount of money to the credit of said North Dakota Academy of Science with which to construct all or any part thereof, deemed expedient by said commissioners to erect or construct; *Provided, further*, That before the bids aforesaid shall be advertised for, there shall be secured to the State of North Dakota fee simple title to sufficient and suitable grounds on which to establish said academy of science.

§ 9. MEMBERS OF BOARD NOT TO BE INTERESTED IN CONTRACTS.] No member of the board or officer of said Academy of Science shall be in any way interested in any contract for the erection of said buildings or furnishing any material for said buildings, and if any such officer be so interested, he shall be deemed guilty of a misdemeanor, and on conviction be fined in any sum not exceeding \$5,000.

§ 10. OFFICIAL SCHOOL VISITS.] After said school shall have commenced its first term, and at least once in each year thereafter, it shall be visited by three suitable persons, not members of such board, to be appointed by the board of education, who shall examine thoroughly into the affairs of the school, and report to the Superintendent of Public Instruction their views in regard to its condition, success and usefulness, and any other matters they may judge expedient. Such visitors shall be appointed annually.

§ 11. BOARD TO HAVE CONTROL OF FUNDS.] All funds appropriated for the use and benefit of said North Dakota Academy of Science shall be under the direction and control of the board of education, subject to the provisions herein contained. The State Treasurer shall pay out of such funds all orders or drafts for money to be expended under the provisions of this act. Such orders or drafts to be drawn by the State Auditor on certificates of the secretary, countersigned by the president of the board. No such certificate shall be given except upon accounts audited and allowed by the board at their regular meetings.

§ 12. EXPENSES OF BOARD, HOW PAID—FACULTY, HOW PAID.] Services and all other necessary traveling expenses, as hereinafter provided, incurred by members of the board of education in carrying out the provisions of this act, shall be paid on the proper certificate out of any funds belonging to said institution in the

hands of the treasurer, until the erection and completion of the necessary buildings. The principal, assistants, teachers, board of education, and other officers employed in said school, shall be paid out of the North Dakota Academy of Science fund, and from receipts for tuition after the erection of the necessary buildings.

§ 13. APPROPRIATION—LAND GRANT.] That 40,000 acres of the 170,000 acres of land donated by Congress for such other educational or charitable purposes as the Legislative Assembly of the State of North Dakota may determine and set apart by the Constitution of said State for a scientific school or such other educational or charitable institution as the Legislative Assembly may prescribe at the city of Wahpeton, county of Richland, and all monies received from the interest and income derived from the sales of such lands or rents derived from the leasing of such lands or any monies or property otherwise donated are hereby appropriated for the construction and maintenance of said school.

§ 14. TEMPORARY FUNDS, HOW SECURED—CERTIFICATES FOR PAYMENT OF SUBSCRIPTIONS TO BE ISSUED.] To provide temporarily for the erection and maintenance of said North Dakota Academy of Science, the said board of education may receive such sum or sums of money as can be actually used in the construction of permanent buildings, procuring of ground whereon to build the same, and other needed and necessary improvements to be made and expenses incurred in connection therewith, not exceeding the sum of \$10,000, and to each person, association, organization or corporation so subscribing and advancing money as aforesaid, the said board of directors shall issue a certificate stating the date of issue and the amount of subscription, which said certificate shall bear interest at a rate of interest not exceeding 6 per cent. per annum and shall be made payable from the funds to accumulate in the interest and income fund arising from interest on permanent fund or from rents received for any lands set apart for said North Dakota Academy of Science or from any appropriation that may hereafter be made for that purpose; *Provided*, That until a sufficient amount of money accumulates in the fund provided for that purpose, with which to pay said certificates, the holders thereof shall each be paid a *pro rata* share of all monies to be paid out on said indebtedness; *Provided, further*, That no part of any appropriation hereinafter to be made from the funds of the State of North Dakota, unless specifically appropriated for that purpose, shall ever be used in payment of said indebtedness or any part thereof.

§ 15. STATE TREASURER TO BE CUSTODIAN OF ALL FUNDS.] All money that may arise from the interest received on all money derived from the sale of lands hereinbefore or that may hereafter be appropriated for said North Dakota Academy of Science, including all money that may be received from the renting of said land, and all monies that may be hereafter appropriated for said North Dakota Academy of Science, by the State of North Dakota, in-

cluding all money raised in any other manner or donated to said North Dakota Academy of Science, shall be deposited with the State Treasurer, to be by him kept in a separate fund, which shall be known as the North Dakota Academy of Science fund, and be used exclusively for the benefit of said North Dakota Academy of Science as may be herein or hereafter provided.

§ 16. RECORD OF PROCEEDINGS.] Every duty and contract to be performed by said board of education must receive the approval of the majority of the board in regular session duly called in order to make binding and valid. That all proceedings of said board shall be recorded in a book kept for that purpose, and open to the inspection of anybody on request.

§ 17. MONIES, HOW PAID OUT.] All money that may come into the Treasury of the State of North Dakota and credited to the North Dakota Academy of Science fund, shall be paid out to the parties entitled thereto and the State Auditor is hereby directed to draw his warrant on the fund in the hands of the State Treasurer belonging to the said school upon the written order of the said board of education which order shall be accompanied by itemized vouchers for the full amount of such order; *Provided*, No such order shall be issued until there is cash in the treasury with which to pay the same.

§ 18. BOARD TO RECEIVE NO COMPENSATION.] The board of education provided for in this act shall receive no compensation and shall be entitled only to their actual and necessary expenses while performing duties as such board.

§ 19. EMERGENCY.] There being no law authorizing the building of an Academy of Science, and in order to at once select a proper site for the same and receive donations to pay for the same, therefore this act shall take effect and be in force immediately from and after its passage and approval.

Approved March 14, 1890.

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## CHAPTER 159.

[H. F. 357.]

### AMENDMENT TO PRECEDING CHAPTER.

AN ACT to Amend an Act Passed at the First Session of the Legislative Assembly Entitled "An Act for an Act to Locate, Establish and Maintain the North Dakota Academy of Science and to Provide for the Government Thereof," Approved March 14, 1890.

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

§ 1. AMENDMENT.] That Section 13 of the act entitled "An act, for an act to locate, establish and maintain the North Dakota

Academy of Science and to provide for the government thereof, approved March 14, 1890," be and the same is hereby amended so as to read as follows:

Sec. 13. APPROPRIATION.] All monies received from the interest and income derived from the sale or leasing of the 40,000 acres of land donated by Congress and appropriated by the Constitution of this State for the purpose of such school, are hereby appropriated for the construction and maintenance thereof.

Approved March 20, 1890.

## CHAPTER 160.

[S. F. 140.]

### AGRICULTURAL COLLEGE AT FARGO.

AN ACT to Provide for the Establishment, Erection and Operation of the North Dakota Agricultural College and Agricultural Experiment Station at Fargo.

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

§ 1. LOCATION.] There is hereby established and located at Fargo, Cass county, North Dakota, an agricultural college, which shall be known by the name of the North Dakota Agricultural College.

§ 2. MANAGEMENT.] The government and management of the North Dakota Agricultural College, is hereby invested in a board of directors to be known as the Agricultural College Board of Directors.

§ 3. BOARD, HOW APPOINTED—VACANCIES.] The board of directors shall consist of five 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 two 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 consent and advice 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; *Pro-*



*vided, however,* That the first board of directors shall be appointed by the Governor at once upon the taking effect of this act. Such appointments to be by and with the consent and advice of the Senate, should the Legislative Assembly be then in session, otherwise the directors appointed shall qualify and hold office until their successors are appointed and qualified. 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 in 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 ensuing session of the Legislative Assembly.

§ 4. COMMISSION—OATH—ORGANIZATION.] The Governor shall cause to be issued to each of said directors a commission, which shall be under the seal of the State. At the first meeting of said board the members thereof shall take and subscribe the oath of office required of all civil officers of the State, and shall then proceed to elect a president, secretary and treasurer, but the treasurer shall not be a member of the board of directors. A majority of said board shall be a quorum for the transaction of business. The board shall require a bond of its treasurer, and fix the amount thereof.

§ 5. MEETINGS—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 be to 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, not to exceed twenty-four days in any one year 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 the vouchers of said board.

§ 6. DUTIES OF BOARD.] The said board of directors shall direct the disposition of all monies appropriated by the Legislative Assembly of the State of North Dakota, or by the Congress of the United States, or that may be derived from the sale of the lands donated by Congress to said State for said college, or that may be donated to or come from any source to said State for the Agricultural College or Experiment Station for North Dakota, subject to all restrictions imposed upon such respective funds either by the Constitution or laws of the State of North Dakota, or the terms of such grants from Congress and shall have supervision and charge of the construction of all buildings provided for or authorized by law for said college and station. The board of directors shall have power to employ a president and necessary teachers, instructors and assistants to conduct said school

and carry on the experiment station connected therewith, and to appoint one of its 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 upon the vouchers of said board.

§ 7. ACCOUNTS, HOW AUDITED.] The said board 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 Agricultural College and Experiment Station, and the State Auditor shall issue his warrant upon the State Treasurer for the amount of all accounts which shall have been so audited and allowed by the board of directors and attested by the president and secretary of the same.

§ 8. COURSE OF STUDY.] The design of the institution is to afford practical instruction in agriculture and the natural sciences connected therewith, and also the sciences which bear directly upon all industrial arts and pursuits. The course of instruction shall embrace the English language and literature, mathematics, military tactics, civil engineering, agricultural chemistry, animal and vegetable anatomy and physiology, the veterinary art, entomology, geology and such other natural sciences as may be prescribed, political and rural and household economy, horticulture, moral philosophy, history, bookkeeping, and especially the application of science and the mechanic's arts to practical agriculture in the field. A full course of study in the institution shall embrace not less than four years, and the college year shall consist of not less than nine calendar months, which may be divided into terms by the board of directors as in their judgment will best secure the objects for which the college was founded.

§ 9. SALARIES OF FACULTY.] The board of directors shall fix the salaries of the president, teachers, instructors and other employes and prescribe their respective duties. They shall also fix the rate of wages to be allowed to students for labor on the farm and experiment station, or in the shops or kitchen of the college. The board may remove the president or subordinate officers and supply all vacancies.

§ 10. RULES AND REGULATIONS.] The faculty shall consist of the president, teachers and instructors, and shall pass all needful rules and regulations for the government and discipline of the college, 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.

§ 11. PRESIDENT'S DUTIES.] The president shall be the chief executive officer of the agricultural college, and it shall be his duty to see that all rules and regulations are executed, and the subordinate officers and employes not members of the faculty shall be under his direction and supervision.

§ 12. FACULTY MAKE ANNUAL REPORT TO BOARD.] The faculty

shall make an annual report to the board of directors on or before the first Monday in November of each year, showing the condition of the school, experiment station and farm and the results of farm experiments, and containing such recommendations as the welfare of the institution in their opinion demands.

§ 13. ANNUAL REPORT TO GOVERNOR.] The board of directors shall, annually, on or before the first day of February in each year, make to the Governor a full and detailed report of the operations of the experimental station hereby established, including a statement of the receipts and expenditures, a copy of which report shall be sent by the Governor to the Commissioner of Agriculture and the Secretary of the Treasury of the United States, and said board of directors shall also make a report to the Governor on or before the first Monday in December next preceding each biennial session of the Legislative Assembly, containing a financial statement, showing the conditions of all funds appropriated for the use of the Agricultural College and Experiment Station; also, the monies expended and the purposes for which the same were expended in detail; also, the condition of the institution and the results of all the experiments carried on there.

§ 14. HONORARY DEGREES.] The board of directors and the faculty shall have power to confer degrees upon all persons who shall have completed the course of study prescribed for said school by the board and faculty, and who shall have passed a satisfactory examination upon the studies contained in said course, and who shall be known to possess a good moral character.

§ 15. WHO KNOWN AS DIRECTORS.] The board of directors as appointed by the Governor and confirmed by the Senate shall constitute and be known as the directors provided for in this act.

§ 16. EXPERIMENT STATION.] There is hereby established an agricultural experiment station in connection with the North Dakota Agricultural College, and under the direction of the board of directors of said college, for the purpose of conducting experiments in agriculture, according to the terms of Section 1 of an act of Congress, approved March 2, 1887, and entitled "An act to establish agricultural experiment stations in connection with the colleges established in the several states, under the provisions of an act, approved July 2, 1862, and of the acts supplementary thereto."

§ 17. ASSENT OF LEGISLATIVE ASSEMBLY.] The assent of the Legislative Assembly of North Dakota is hereby given, in pursuance of the requirements of Section 9 of said act of Congress, approved March 2, 1887, to the grant of money therein made, and to the establishing of an experiment station, in accordance with Section 1 of said last mentioned act, and assent is hereby given to carry out all and singular the provisions of said act.

§ 18. ACCEPTANCE OF LAND GRANT.] The grants of land accruing to the State of North Dakota under and by virtue of an act of Congress, donating public lands for the use and support of agri-

cultural colleges in certain proposed states, approved February 22, 1889, is hereby accepted with all the conditions and provisions in said act contained, and said lands are hereby set apart for the use and support of the college herein provided for.

§ 19. PER DIEM AND MILEAGE.] There shall be no expense incurred or *per diem* and mileage paid to any officer of the board contemplated under the provisions of this act until an appropriation shall have been made for the erection of any building or buildings for the agricultural college or experimental station.

§ 20. EMERGENCY.] An emergency exists in that it is desirable to receive at once the benefit of the money appropriated by Congress for such institutions, therefore, this act shall be in force immediately from and after its passage and approval.

Approved March 8, 1890.

## CHAPTER 161.

[S. F. 31.]

### DEAF AND DUMB SCHOOL AT DEVILS LAKE.

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. LOCATION.] That there shall be located and permanently maintained at or near the city of Devils Lake, in the county of Ramsey, an institute for the support and education of the deaf and dumb children of the State, to be known and designated as the "North Dakota School for the Deaf and Dumb."

§ 2. MANAGEMENT—BOARD, HOW APPOINTED.] That the said school shall be under the supervision of a board of trustees consisting of three persons, together with the Governor and Superintendent of Public Instruction, who shall be *ex-officio* members of the said board; 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.

§ 3. ORGANIZATION—MEETINGS.] That the said trustees shall meet in the city of Devils Lake within one month from the date of their appointment for the purpose of organization. They shall

choose from among their number a president, secretary and treasurer, who shall hold office for two years, or until their successors are appointed and qualified. Three of said board of trustees shall constitute a quorum for the transaction of business. Said board shall meet annually in the month of December and as often thereafter as may be deemed necessary for the proper transaction of business, upon the call of the president or secretary.

§ 4. OATH—DUTIES OF OFFICERS OF BOARD.] Each member of the board shall, before entering upon his duties, take and subscribe an oath to support the Constitution of the United States, the Constitution of the State of North Dakota, and that he will faithfully and impartially discharge the duties required of him by the provisions of this act, which oath shall be filed in the office of the Secretary of State. The president shall preside at all meetings of the board, when present, and in his absence a president *pro tempore* may be named to perform the duties of president. He shall sign all certificates of indebtedness, bills and all papers approved or allowed by said board. The secretary shall countersign all certificates of indebtedness, bills and all papers approved or allowed by said board. The secretary shall keep a correct record of the proceedings of the board and have charge of, in trust for the school, all papers and records of the same. The treasurer, before entering upon the duties of his office, shall give a bond in the amount and in the manner prescribed by the laws of this State, and shall safely keep and faithfully disburse all monies coming into his hands for the use of said school, and shall render an exact and detailed account of each and all expenditures when the said board shall require.

§ 5. BOARD TO DIRECT DISPOSITION OF MONEY.] The board of trustees shall direct the disposition of all monies appropriated by the Legislative Assembly of the State of North Dakota or received from any other source for the benefit of said institution.

§ 6. GENERAL DUTIES OF BOARD.] Said board shall have general supervision of the school, adopt rules for the government thereof, employ officers, teachers and servants, provide necessaries for the institute, and perform all other acts necessary to render it efficient and to carry out the provisions of its establishment.

§ 7. INDEBTEDNESS LIMITED.] The board shall not create any indebtedness against the institute exceeding the amount appropriated by the Legislative Assembly for the use thereof.

§ 8. PER DIEM AND MILEAGE.] All indebtedness incurred by said board in carrying out the provisions of this act, together with the compensation of three (3) dollars per day for the time actually employed in such service, and five (5) cents per mile for each mile necessarily traveled in going to and returning from the meetings of said board, shall be paid out of the State Treasury upon a certificate of the president of the board, countersigned by the secretary, stating the items of such indebtedness and compensation, and that the same is just and necessary according to the

provisions of this act, and upon the presentation of said certificate to the Auditor of State, he shall issue his warrant or warrants to the party or parties to whom such money is due and payable, and the Treasurer of the State shall pay such warrants out of any monies appropriated for that purpose. But the Auditor shall not issue any warrant without an itemized account, properly sworn to, accompanying the certificate of the president of the board. Said account may be sworn to before the president of said board, who is hereby authorized and empowered to administer oaths for said purpose.

§ 9. FEE FOR NON-RESIDENT SCHOOL CHILDREN.] That deaf and dumb children, not resident of this State, of suitable age and capacity, shall be entitled to an education in said school on payment to the State Treasurer of the sum of one hundred and eighty (180) dollars per annum, in advance, but such children shall not be received to the exclusion of children of this State.

§ 10. RESIDENTS OF STATE ENTITLED TO EDUCATION.] That every deaf and dumb person, who is a resident of this State, of suitable age and capacity, shall be entitled to receive an education in said school at the expense of the State.

§ 11. COUNTY ASSESSORS TO GATHER STATISTICS.] That the county assessors of each county shall annually report to the county clerk the names, ages, postoffice address and names of parents or guardians of every deaf and dumb person between the ages of five and twenty-five years residing in his county, including all such persons as may be too deaf to acquire an education in the common schools. The county clerk shall, on or before the first day of August in each year, send a list containing the names, ages and residence of all such persons to the principal of the school.

§ 12. ACCOUNTS FOR CLOTHING, HOW COLLECTED.] When the pupils of said school are not otherwise provided or supplied with suitable clothing, they shall be furnished by the principal, who shall make out an account thereof in each case against the parent or the guardian, if the pupil be a minor, and against the pupil if he or she has no parent or guardian or has attained the age of majority; which account shall be certified to be correct by the principal, and when so certified such account shall be presumed correct in all courts. The principal shall thereupon remit such account by mail to the treasurer of the county from which the pupil so supplied shall have come to the school; such treasurer shall proceed at once to collect the amount by suit in the name of his county, if necessary, and pay the same into the State Treasury; the principal shall at the same time remit a duplicate of such account to the Auditor of State, who shall credit the same to the account of the school, and charge it to the proper county; *Provided*, If it shall appear by the affidavit of three disinterested citizens of the county, not a kin to the pupil, that the said pupil or his or her parents would be unreasonably oppressed by such suit, then such

treasurer shall not commence such suit, but shall credit the same to the State on his books, and report the amount of such account to the board of commissioners of his county, and the said board shall levy sufficient tax to pay the same to the State, and cause the same to be paid into the State Treasury.

§ 13. TRANSPORTATION OF INDIGENT PERSONS.] The board of county commissioners shall order the expenses of transportation of any indigent deaf and dumb children found in their counties to and from the said school, from the county treasury. They shall levy a tax sufficient to cover the same back into the said treasury at the same time when taxes are generally levied for county and other purposes.

§ 14. FACULTY—DUTIES OF PRINCIPAL.] The officers of the school shall be a principal and a matron. The principal shall be a capable person, skilled in the sign language and who shall have a knowledge of the wants and instruction of the deaf and dumb. The principal shall be a resident officer of the school and shall receive a salary of \$1,000 per annum, which salary may be increased by enactment of the Legislative Assembly when the growth of the school and increase of responsibilities shall justify the same. He shall annually certify to the board of trustees a written report stating in full the true condition of the educational, the domestic and the industrial departments of the school, his actions and proceedings therein, which report shall be embodied in the report of the board of trustees to the Governor. He shall keep and have charge of all necessary records and register of said departments; have supervision of its teachers, pupils and servants, and perform such other duties as the board may require. He shall secure and employ all assistants needed therein, with the consent and approval of the board. He shall have special charge of the male pupils out of school hours, and shall furnish them with employment about the premises, or in some trade to which they are adapted. The proceeds and products arising from the labor and employment of all the pupils shall inure to the use and benefit of the school.

§ 15. DUTY OF MATRON.] The matron of the school shall also be a resident of the same. She shall have control of the internal arrangements and management of the house, and of the female pupils out of school hours. She shall instruct them in and about the house, and the domestic departments, or in some trade to which they are adapted, under the direction of the principal.

§ 16. BIENNIAL REPORT.] The board of trustees shall, on or before the first day of December, 1890, biennially thereafter, make out to the Governor of the State a full and complete report as follows, to-wit:

First. A statement of the financial condition of the school from the date of the last report, giving in detail the amount of monies received from all sources and the amount expended.

Second. The value of real estate and buildings at the date

of last report and cost of improvements made, if any, since last report.

Third. The number of pupils in attendance, their names, ages, residences and cause of deafness; also, the number that have entered the school, and the number of those who may have left it since the last report.

Fourth. The number and cause of deaths if any that have occurred in the school since last report.

Fifth. The improvement, health and discipline of the pupils

Sixth. The number of officers and teachers and servants employed, with their names.

Seventh. All other needful information touching every point that may be deemed of interest to be communicated.

Eighth. They shall make such recommendations as may be deemed needful.

§ 17. APPROPRIATION.] That the sum of \$5,000 are hereby appropriated for the purpose of carrying out the provisions of this act for the fiscal year next on and after March 31, 1890.

SENATE CHAMBER,

BISMARCK, N. Dak., March 18, 1890.

I hereby certify that the within Act, together with the objections of His Excellency, Governor John Miller, was returned to the Senate, the house in which it originated, on the 14th day of January, A. D. 1890; that the objections of the Governor were read at length and entered upon the Journal; that thereupon the said bill was laid over for consideration until March 15, 1890, and upon that day the matter coming up for consideration, the question was put, "Shall this bill pass, the objections of the Governor to the contrary notwithstanding?" The roll was called and the bill did pass, more than two-thirds of the members-elect and voting, voting in the affirmative.

ALFRED DICKEY,  
President of the Senate.

Attest:

C. C. BOWSFIELD,  
Secretary of the Senate.

HOUSE OF REPRESENTATIVES,

BISMARCK, N. Dak., March 18, 1890.

I hereby certify that the within Act, together with the objections of His Excellency, Governor John Miller, was received by the House from the Senate, that being the house in which it originated, on the 15th day of March, 1890; that the objections of the Governor were read at length and entered upon the Journal; that said bill came before the House for consideration on the 18th day of March, 1890, and the question was put "Shall this bill pass, the objections of the Governor to the contrary notwithstanding?" The roll was called and the bill did pass, more than two-thirds of the members-elect and voting, voting in the affirmative.

D. B. WELLMAN,  
Speaker of the House.

Attest:

J. G. HAMILTON,  
Chief Clerk.

CHAPTER 162.

[S. F. 64.]

NORMAL SCHOOL AT MAYVILLE.

AN ACT Entitled "An Act to Provide for the Erection and Operation of a State Normal School at Mayville, Traill County, North Dakota."

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

§ 1. LOCATION.] For the purpose of establishing a State Normal School at Mayville, Traill County, North Dakota, there is



hereby located at said city of Mayville, in the county of Traill and State of North Dakota, a State Normal School, to be known as the State Normal School, and the 30,000 acres of land set apart by the Constitution for such institution is hereby appropriated for that purpose, under such regulations as may hereafter 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 school at the city of Mayville, are hereby pledged for its establishment and maintenance.

§ 3. MANAGEMENT.] The government and management of said normal school is hereby vested in a board of directors, to be known as the Board of Directors of the State Normal School at Mayville.

§ 4. BOARD, HOW APPOINTED.] The board of directors shall consist of five members, who shall be named by the Governor, by and with the consent and advice of the Senate, on or before the third Monday in February of each biennial session of the Legislative Assembly. The Governor and State Superintendent of Public Instruction shall be *ex-officio* members of said board. The Governor shall have power to fill all vacancies in said board which may 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 in this act.

§ 5. COMMISSION—OATH—OFFICERS.] The Governor shall cause to be issued to each of said directors a commission, which shall be under the seal of the State. At the first meeting of the said board the members thereof shall take and subscribe the oath of office required by all civil officers of the State, and shall proceed to elect a president, and the principal of the school shall be 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.

§ 6. MEETINGS—COMPENSATION.] The board of directors shall hold its meetings at the city of Mayville, and fix the time of holding the same in each year. 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, 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. Said board shall not be in session to exceed twenty-four days in any one year.

§ 7. FUNDS, HOW RAISED—RESTRICTIONS.] To provide temporarily for the erection and maintenance of said State Normal School the said board of directors may receive such sum or sums

of money as can be actually used in the construction of permanent buildings, procuring of ground whereon to build the same, and other needed and necessary improvements to be made, not exceeding the sum of \$10,000, and to each person who shall so subscribe and advance said money to said fund the said board of directors shall issue a certificate stating the date of issue, and the amount of such subscription, which said certificate shall bear interest at a rate not exceeding 6 per centum per annum, and shall be payable from the interest and income fund to accumulate from the sale of the lands hereinbefore appropriated; *Provided*, That until sufficient money accumulates from the interest and income fund from the interest and income derived from the fund accumulating from the renting or sale of said lands aforesaid with which to discharge said indebtedness, the said holders of said certificates shall each be paid a *pro rata* share of all monies to be paid out on said indebtedness; *Provided, further*, That no part of any appropriations hereafter to be made, from the funds of the State of North Dakota, other than the fund accumulated from the sale of lands aforesaid, shall ever be used in payment of any part of said indebtedness.

§ 8. DUTIES AND POWERS OF BOARD—SUPERINTENDENT OF CONSTRUCTION.] The said directors shall direct the disposition of all monies appropriated by the Legislative Assembly for said normal school, and shall have supervision and charge of the construction of all buildings provided for by law for said school. The board of directors shall have power to employ a principal and necessary teachers, instructors and assistants to conduct said school, and to appoint one of its 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 any funds provided for the establishment and maintenance of said school upon the vouchers of said board, when approved by the Auditor.

§ 9. ACCOUNTS, HOW AUDITED AND PAID.] The said board shall audit all accounts against the funds appropriated for the use of the school, and shall issue its warrant for the amount of all accounts, which shall have been audited and allowed by the board of directors and attested by the president and secretary of the same, payable out of any funds provided for the payment thereof.

§ 10. COURSE OF STUDY.] The normal school hereby established and provided for shall be known by the name of the State Normal School of Mayville, North Dakota. The design of the institution is to afford instruction in the several English branches and natural science; to prepare and educate the student especially in the art of teaching public schools, and such branches as are taught in normal schools generally; but said school shall, in all things, be free from sectarian control or instruction. Said board shall, by and with the assistance of the faculty of said school, pre-

pare a full course of study not inconsistent with the foregoing provisions.

§ 11. SALARIES OF FACULTY TO BE FIXED BY BOARD.] The board of directors shall fix the salaries of the principal, teachers and other employes and prescribe their respective duties. The board may remove the principal or subordinate officers and supply all vacancies, and may further prescribe the time and length of the various terms of said school.

§ 12. FACULTY.] The faculty shall consist of the principal, teachers and instructors, who shall pass all needful rules and regulations 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.

§ 13. PRINCIPAL'S DUTY.] 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, not members of the faculty, shall be under his direction and supervision.

§ 14. REPORT TO BOARD.] The faculty shall make an annual report to the board of directors on or before the first Monday in December of each year, showing the general condition of the school, and containing such recommendations as the welfare of the institution demands.

§ 15. BIENNIAL REPORT TO THE GOVERNOR.] The board of directors shall make a report to the Governor on or before the last Monday in December next preceding each biennial session of the Legislative Assembly, containing a financial statement, showing the condition of all funds appropriated for the school; also the money expended and the purpose for which the same was expended, in detail; also showing the condition of the institution generally.

§ 16. CERTIFICATES.] The board of directors and the faculty shall have power to issue certificates to all persons who shall have completed the course of study prescribed for said school by the board of faculty, and who shall have passed a satisfactory examination upon the studies contained in said course, and who shall be known to possess good moral character, which certificate shall set forth the above mentioned facts.

§ 17. FUNDS, HOW KEPT.] All monies that may arise from the interest and income derived from the renting and sale of lands hereinbefore appropriated and all monies that may hereafter be appropriated by the State of North Dakota, including all monies raised in any other manner for said school, shall be deposited with the State Treasurer, to be by him kept in a separate fund, which shall be known as the "fund of the State Normal School located at the city of Mayville," and be used exclusively for the benefit of said school as may be herein or hereinafter provided.

§ 18. WHO KNOWN AS DIRECTORS.] The board of directors as

appointed by the Governor and confirmed by the Senate, shall constitute and be known as the directors provided for in this act.

Approved February 17, 1890.

## CHAPTER 163.

[H. F. 241.]

### NORMAL SCHOOL AT VALLEY CITY.

AN ACT to Locate and Provide for the Government of a State Normal School at Valley City, Barnes County, North Dakota.

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

§ 1. LOCATION.] There is hereby established and located at Valley City, Barnes county, North Dakota, a Normal School, which shall be known by the name of the State Normal School at Valley City.

§ 2. MANAGEMENT.] The government and management of said Normal School is hereby vested in a board of directors consisting of five members.

§ 3. BOARD, HOW APPOINTED.] The members of said board shall be nominated by the Governor, and by and with the consent and advice 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 shall be appointed by the Governor at once upon the taking effect of this act; such appointments to be by and with the consent and advice of the Senate, should the Legislative Assembly be then in session, otherwise the directors appointed shall qualify and hold office until their successors are appointed and qualified. 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 in this act.

§ 4. COMMISSION—OATH—OFFICERS.] The Governor shall cause to be issued to each of said directors a commission, which shall be under the seal of the State. At the first meeting of said board the members thereof shall take and subscribe the oath of office required of all civil officers of the State, and shall then proceed to elect a president, secretary, and treasurer, but the treasurer need not be a member of the board of directors. A majority of said board shall be a quorum for the transaction of business.

The board shall require a bond of its treasurer, and fix the amount thereof.

§ 5. MEETINGS—PER DIEM AND MILEAGE.] The board of directors shall hold its meetings at the city of Valley City, and fix the time of holding the same; *Providing*, There shall not be to exceed ten regular meetings each year. The members of the board shall receive as compensation for their services three (3) dollars per day for each day employed, not to exceed twenty-four days in any one year, 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 the vouchers of said board.

§ 6. DUTIES AND POWERS OF BOARD—SUPERINTENDENT OF CONSTRUCTION.] The said board of directors shall direct the disposition of all monies appropriated by the Legislative Assembly of the State of North Dakota or the interest of all monies that may be derived from the sale or lease of the lands donated by Congress to said State, and by the Constitution of said State appropriated for said school, and shall have supervision and charge of the construction of all buildings provided for or authorized by law for said school. The board of directors shall have power to employ a principal and the necessary teachers, instructors and assistants to conduct said school, and to appoint one of its 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 upon the vouchers of said board.

§ 7. ACCOUNTS, HOW AUDITED AND PAID.] The said board 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 said normal school, and the State Auditor shall issue his warrant upon the State Treasurer for the amount of all accounts which shall have been so audited and allowed by the board of directors and attested by the president and secretary of the same.

§ 8. COURSE OF STUDY.] The design of said normal school is to afford instruction in the several English branches and natural science; to prepare and educate the students especially in the art of teaching public schools, and such branches as are usually or generally taught in normal schools. But said school shall in all things be free from sectarian control. Said board shall by and with the assistance of the faculty of said school prepare a full course of study not inconsistent with the foregoing provisions.

§ 9. BOARD TO FIX SALARIES OF FACULTY.] The board of directors shall fix the salaries of the principal, teachers, instructors and other employes, and prescribe their respective duties. The board may remove the principal or subordinate officers and supply all vacancies, and may further prescribe the time and length of the various terms of said school.

§ 10. FACULTY.] The faculty shall consist of the principal, teachers and instructors, and shall pass all needful rules and regulations for the government and discipline of the school, regulating the routine of labor, study, meals and the duties and exercises, and all rules as are necessary to the preservation of morals, decorum and health.

§ 11. 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 enforced, and the subordinate officers and employes not members of the faculty shall be under his direction and supervision.

§ 12. ANNUAL REPORT TO BOARD.] The faculty shall make an annual report to the board of directors on or before the first Monday in December of each year, showing the general condition of the school, and containing such recommendations as the welfare of the school demands.

§ 13. BIENNIAL REPORT TO GOVERNOR.] The board of directors shall make a report to the Governor on or before the last Monday in December next preceding each biennial session of the Legislative Assembly, containing a financial statement, showing the conditions of all funds appropriated for the use of the school; also the money expended and the purposes for which the same were expended in detail; also showing the conditions of the school generally.

§ 14. CERTIFICATES.] The board of directors and the faculty shall have power to issue certificates to all persons who shall have completed the course of study prescribed for said school by the board and faculty and who shall have passed a satisfactory examination upon the studies contained in said course, and who shall be known to possess a good moral character, which certificate shall set forth the above mentioned facts and said certificate shall be considered equivalent to a first grade public school teachers' certificate, and qualify the holder thereof to teach in any of the public schools of this State without further examination.

§ 15. WHO KNOWN AS DIRECTORS.] The board of directors, as appointed by the Governor and confirmed by the Senate shall constitute and be known as the board of directors provided for in this act.

§ 16. COMPENSATION OF BOARD CONDITIONAL.] Until such time as the Legislative Assembly of the State of North Dakota shall make an appropriation for the construction and maintenance of said school, or until there shall be derived from the interest of the proceeds of the sale or lease of the 50,000 acres appropriated to this school in the Constitution of this State sufficient funds to constitute and maintain said school, or until there shall be donated to said school the sum of \$5,000, the directors appointed under this act shall receive no compensation whatever, nor shall they

issue their warrant upon the State Treasurer for any purpose whatever.

Approved March 8, 1890.

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## CHAPTER 164.

[H. F. 283.]

### REFORM SCHOOL AT MANDAN.

AN ACT to Locate and Provide for the Government of a State Reform School at Mandan, Morton County, North Dakota.

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

§ 1. LOCATION—MANAGEMENT.] There is hereby established and located at the city of Mandan, Morton county, North Dakota, a reform school, which shall be known by the name of the North Dakota State Reform School, and shall be maintained for the reformation of such boys and girls under the age of eighteen years who may be committed to it as hereinafter provided. The government and management of said reform school is hereby vested in a board of trustees consisting of five members, who shall be styled the Board of Trustees of the North Dakota Reform School.

§ 2. BOARD, HOW APPOINTED.] The members of said board shall be nominated by the Governor, and by and with the consent of the Senate shall be appointed on or before the third Monday of February of each biennial session of the Legislative Assembly; *Provided, however,* That the first board of trustees shall be appointed by the Governor at once upon the taking effect of this act. Such appointments to be by and with the consent and advice of the Senate, should the Legislative Assembly be then in session; otherwise the trustees appointed shall qualify and hold office until their successors are appointed and qualified. The Governor shall have power to fill all vacancies in said board which may 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 in this act.

§ 3. COMMISSION—OATH—OFFICERS.] The Governor shall cause to be issued to each of said trustees a commission, which shall be under the seal of the State. At the first meeting of said board the members thereof shall take and subscribe the oath of office required of all civil officers of the State, and shall then proceed to elect a president, secretary and treasurer, but the treasurer need not be a member of the board of trustees. A majority

of said board shall be a quorum for the transaction of business. The board shall require a bond of its treasurer and fix the amount thereof.

§ 4. MEETINGS—PER DIEM AND MILEAGE.] The board of trustees shall hold its meetings at the city of Mandan, and fix the time of holding the same; *Provided*, There shall not be to exceed twelve 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, not to exceed twenty-four days in any one year, and five (5) cents per mile for each mile actually and necessarily traveled in attending the meetings of said board, which sum shall be paid out of the State Treasury on the vouchers of said board.

§ 5. DUTIES AND POWER OF BOARD.] The said board of trustees shall direct the disposition of all monies appropriated by the Legislative Assembly of the State of North Dakota or the interest of all monies that may be derived from the sale, or the rent derived from the leasing of land donated by Congress to said State and by the Constitution of said State appropriated for said school, and shall have supervision and charge of the construction of all buildings provided for or authorized by law for said school. Said board of trustees of said school shall have power to enact by-laws and rules for the regulation of all its concerns not inconsistent with the laws of this State, to see that its affairs are conducted in accordance with the requirements of law, and that strict discipline is maintained therein; to provide employment and instruction for the inmates; to appoint a superintendent, a steward, a teacher or teachers, and such other officers as in their judgement the wants of the institution may require, and prescribe their duties; to exercise a general supervision over the institution, its officers and inmates, and determine the salaries to be paid to the officers and order their removal upon good cause.

§ 6. INSTRUCTION OF INMATES.] They shall cause the boys and girls under their charge to be instructed in morality, and in such branches of useful knowledge as are adapted to their age and capacity, and in some regular course of labor, either mechanical, manufacturing or agricultural, as is best suited to their age, strength, disposition and capacity, and as may seem best adapted to secure the reformation and future benefit of said boys and girls.

§ 7. EXAMINATION OF SCHOOL—BIENNIAL REPORT.] When there shall be twenty or more boys in the school one or more of the trustees shall visit the school once in every month, and examine the boys and girls in their school room and labor, and inspect the register and accounts of the superintendent. A record shall be kept of these visits in the books of the superintendent. Once in each year or oftener if the trustees think it necessary they shall examine the school in all its departments, including the accounts, vouchers and documents of the superintendent, and prepare a report on the condition of the institution on the last Monday in De-



member preceding the meeting of the Legislative Assembly, which, together with the full report of the superintendent and a list of the officers and employes and their salaries, with the estimate of the value of the personal property belonging to the school, and a financial statement showing the condition of all funds appropriated for the use of the school, also the money expended and the purposes for which the same were expended in detail, shall be laid before the Legislative Assembly.

§ 8. DISCIPLINE.] The superintendent with such subordinate officers as the trustees may appoint shall have the charge and custody of the boys and girls. He shall discipline, govern, instruct, employ and use his best endeavors to reform the inmates in such a manner as, while preserving their health, will secure the promotion as far as possible of moral and industrious habits, and regular, thorough progress in their studies, trades and employment.

§ 9. BOND OF SUPERINTENDENT—DUTIES OF SUPERINTENDENT.] He shall, before entering upon his duties, give a bond to the State of North Dakota with sureties for the amount, such sureties to be satisfactory to the board of trustees, conditioned that he will faithfully perform all his duties, and account for all money received by him as superintendent, which bond shall be filed in the office of Secretary of State. He shall have charge of all the property of the institution within the precincts thereof; he shall keep in suitable books complete accounts of all his receipts and expenditures, and of all property entrusted to him, showing the income and expenses of the institution in such manner as the trustees may require. His books and documents relating to the school shall at all times be open to the inspection of the trustees, who shall keep a register containing the name, age and circumstances connected with the early history of each boy and girl, and shall add such facts as may come to his knowledge relating to his or her history while at the institution and after leaving it.

§ 10. WHO MAY BE SENT TO REFORM SCHOOL BY COURT OF RECORD.] When a boy or girl under the age of 18 years shall in any court of record be found guilty of any crime excepting murder, the said court may, if in its opinion the accused is a proper subject therefor, instead of entering judgment, cause an order to be entered that said boy or girl be sent to the State Reform School pursuant to the provisions of this act, and a copy of said order duly certified by the clerk under the seal of said court, shall be sufficient warrant for carrying said boy or girl to the school and for his or her commitment to the custody of the superintendent thereof.

§ 11. WHEN CONVICTED BEFORE JUSTICE OF THE PEACE.] When a boy or girl under the age of eighteen shall be convicted before a justice of the peace or other inferior courts, of any crime or of being a disorderly person, it shall be lawful for the magistrate before whom he or she may be convicted, to forthwith send such boy or girl, together with all the papers filed in his office on the subject, under

the control of some officer to a judge of a court of record, who shall then issue an order to the parent or guardian of said boy or girl, or such person as may have him or her in charge, or with whom he or she has last resided, or one known to be nearly related to him or her, or if he or she be alone or friendless, then to such person as the said judge may appoint to act as guardian for the purposes of the case, requiring him to appear at a time and place stated in said order, to show cause why said boy or girl should not be committed to the Reform School for reformation and instruction.

§ 12. ORDER ON PARENT OR GUARDIAN TO BE SERVED BY SHERIFF. ] Said order shall be served by the sheriff or other officer by delivering a copy thereof personally to the party to whom it is addressed, or leaving it with some person of full age at the place of residence or business of said party, and immediate return shall be made to the said judge of the manner and time of said service; the fees of the sheriff or other officer under this act shall be the same as now allowed by law for like services.

§ 13. APPEARANCE AND HEARING—WHEN COURT MAY COMMIT. ] At the time and place mentioned in said order or at the time and place to which it may be adjourned, if the parent or guardian to whom the order may be addressed shall appear, then in his or her presence or if he or she shall fail to appear, then in the presence of some suitable person, whom the said judge shall appoint as guardian for the purposes of the case it shall be lawful for said judge to proceed to take the voluntary testimony of said boy or girl and to hear the statements of the party appearing for him or her, and such testimony in relation to the case as may be produced, and if upon such examination and hearing the said judge shall be satisfied that the said boy or girl is a fit subject for the State Reform School, he may commit him or her to said school by warrant.

§ 14. WHAT JUDGE SHALL CERTIFY IN WARRANT, ETC. ] The said judge shall certify in the warrant the place in which the boy or girl resided at the time of his or her arrest; also his or her age as near as can be ascertained, and command the said officer to take the said boy or girl and deliver him or her without delay to the superintendent of said school or other person in charge thereof at the place where the same is established, and such certificate for the purposes of this act shall be conclusive evidence of his or her age. Accompanying this warrant the judge shall transmit to the superintendent by the officer executing it a statement of the nature of the complaint, together with such other particulars concerning the boy or girl that the judge is able to ascertain.

§ 15. WHEN BOY OR GIRL TO BE REMANDED. ] If the judge is of the opinion that the boy or girl is not a fit subject for the school, or if said boy or girl shall appeal from the decision of the court in which the conviction was had he shall remand him or her to the custody of the officer in charge to be returned to the magis-

trate before whom the conviction was had to be dealt with according to law.

§ 16. COMPLAINT BY PARENT OR GUARDIAN—WHEN JUDGE MAY COMMIT.] If any parent or guardian shall make complaint to a judge of a court of record that any boy or girl, the child or ward of said parent or guardian is habitually vagrant, or disorderly, or incorrigible it shall be lawful for said judge to issue a warrant to have the sheriff or constable to cause said boy or girl to be brought before him at such time and place as he may appoint, when and where said judge shall examine the parties and if in his judgment the said boy or girl is a fit subject for the reform school, he may issue an order with the consent of said parent or guardian endorsed thereon, to be executed by the sheriff or constable committing said boy or girl to the custody of the superintendent of said school, for reformation and instruction till he shall attain the age of majority; *Provided*, That security for the payment of the expenses of said complaint, commitment, and carrying such boy or girl to the reform school and the expenses of board at such school, may, in the discretion of said judge be required of said parent or guardian.

§ 17. TERM OF COMMITMENT—DISCHARGE FOR GOOD CONDUCT.] No boy or girl shall be committed to said reform school for a longer term than until he or she attain the age of majority; the said trustees by their order may at any time after one year's service discharge a boy or girl from said school as a reward of good conduct in the school, and upon satisfactory evidence of reformation.

§ 18. INCORRIGIBLES MAY BE RETURNED TO COUNTY FROM WHENCE COMMITTED.] If any boy or girl convicted of a felony committed to the reform school shall prove unruly or incorrigible, or if his or her presence shall be manifestly or persistently dangerous to the welfare of the school, the trustees shall have power to order his or her removal to the county from which he or she came and delivered to the jailer of said county, and proceedings against him or her shall be resumed as if no warrant or order committing him or her to the reform school had been made.

§ 19. PENALTY FOR AIDING INMATES TO ESCAPE.] Every person who unlawfully aids or assists any boy or girl lawfully committed to the reform school in escaping or attempting to escape therefrom, or knowingly conceals such boy or girl after his or her escape, shall be punished by a fine not exceeding \$1,000, and imprisonment in the penitentiary not more than two years.

§ 20. APPROPRIATION.] The forty thousand acres of land donated by Congress for the purpose of such school and appropriated by the Constitution of this State therefor, and all monies received from the interest and income derived from the sales of such lands or rents derived from the leasing of such lands, are hereby appropriated for the construction and maintenance of said school.

§ 21. COMPENSATION OF BOARD CONDITIONAL.] Until such time

as the Legislative Assembly of the State of North Dakota shall make an appropriation for the construction and maintenance of such school, or until there shall be derived from the interest of the proceeds of the sale or rent for the leasing of the 40,000 acres appropriated for this school, sufficient funds to construct and maintain such school, or until there shall be donated to said school the sum of \$5,000 the trustees appointed under this act shall receive no compensation whatever, nor shall they issue their warrant upon the State Treasury for any purpose whatever.

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

Approved March 16, 1890.

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## CHAPTER 165.

[H. F. 305.]

### SOLDIER'S HOME AT LISBON.

AN ACT for the Establishment, Government and Maintenance of a Soldier's Home.

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

§ 1. LOCATION.] That there be and is hereby created, located and established a Soldier's Home in the city of Lisbon, in the county of Ransom and State of North Dakota.

§ 2. OBJECTS OF SOLDIER'S HOME—WHO MAY BE ADMITTED.] The object of the Soldier's Home shall be to provide a home and subsistence for all honorably discharged soldiers, sailors and marines who have served in the army or navy of the United States, and who are disabled by disease, wounds, old age or otherwise; *Provided*, That no applicant shall be admitted to said home who has not been a resident of this State or the Territory of Dakota at least one year next preceding his application for admission therein, unless he served in a Dakota regiment or company, or was accredited to the territory of Dakota.

§ 3. GRANTED LANDS AND FUNDS PLEDGED.] All lands granted or hereafter to be granted by the United States or by the State of North Dakota or by the Constitution of the State, set apart for the support of a Soldier's Home at the city of Lisbon, in the county of Ransom in the State of North Dakota, and all the proceeds from sales thereof, are hereby pledged as a perpetual fund for the use and benefit of said Soldier's Home as herein provided.

§ 4. MANAGEMENT.] The government and management of said Soldiers' Home, until otherwise provided, is hereby vested in a board of commissioners to be known as the Board of Commissioners of the Soldiers' Home.

§ 5. BOARD OF COMMISSIONERS, HOW APPOINTED.]. The general supervision and government of the Soldiers' Home shall be vested in a board of five commissioners, who shall be selected by the Governor, by and with the consent of the Senate of the State of North Dakota; no two shall be from the same county. The members of said board shall hold their respective offices for the term of two years, except the chairman of said board, who shall only hold his office for one year; *Provided*, That when not otherwise incompetent in the opinion of the Governor, he shall appoint as the chairman of said board of commissioners the commander or chief officer of that organization known as the "Grand Army of the Republic," and the appointment of such chairman shall be made each year immediately after his election by said organization without the advice or consent of the Senate.

§ 6. OATH—BOND—PLANS AND SPECIFICATIONS.]. Before entering upon the duties of their office, each member of the said board of commissioners shall take and subscribe an oath, as follows: "I do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of North Dakota and will faithfully discharge the duties of board of commissioners of the Dakota Soldier's Home, according to the best of my ability; that I have not received and will not knowingly and intentionally, directly or indirectly, receive any money or other consideration from any source whatever, for any vote or influence I may give or withhold, or for any other official act I may perform as such commissioner, except as herein provided," and also execute a bond in the penal sum of \$3,000 for the use and benefit of the State of North Dakota, with two or more good and sufficient sureties, to be approved by the Governor, and be filed with the Secretary of the State, conditional upon the faithful performance of his duties, and the honest and faithful disbursement of and accounting for all monies which may come into his hands under the provisions of this act. The said board, having taken the foregoing oath and executed the bond as aforesaid, is hereby empowered and required to cause to be prepared suitable plans and specifications by a competent architect, such plans shall contemplate the erection of a building or buildings, which shall accommodate not less than 100, nor more than 300 inmates, and shall be accompanied by specifications and by a detailed estimate of the amount required and description of all material and labor required for the entire and full completion of the buildings, and no plan shall be adopted that contemplates the expenditure of more money for its completion than the amount reasonably necessary to carry out the objects of said institution.

§ 7. SUPERINTENDENT OF CONSTRUCTION.] That the said board of commissioners shall employ the architect whose plans and specifications are accepted, to act as a superintendent of construction, who shall receive for such plans and specifications and for superintending construction, such pay as the board shall by agreement determine, which pay shall not exceed an amount equal to 5 per cent. of the estimated cost of said buildings.

§ 8. PROPOSALS.] Whenever the said plans and specifications shall have been approved and adopted by a majority of the board, the commissioners shall cause to be inserted in at least two of the daily newspapers published in the State of North Dakota, and having a general circulation therein, an advertisement for sealed bids for the construction of the buildings herein authorized, and they shall furnish a printed copy of this act and of the plans and specifications to all persons applying therefor; *Provided*, Said commissioners may advertise as aforesaid whenever there shall be a sufficient amount of money to the credit of said Soldier's Home with which to construct all or any part thereof, deemed expedient by said commissioners to erect or construct; *Provided, further*, That before the bids aforesaid shall be advertised for, there shall be secured to the State of North Dakota fee simple title to sufficient and suitable grounds on which to establish said Home.

§ 9. BOARD NOT TO BE INTERESTED IN ANY CONTRACTS.] No commissioner or officer of said Soldier's Home shall be in any way interested in any contract for the erection of said buildings, or furnishing any material for said buildings and if any such officer be so interested, he shall be deemed guilty of a misdemeanor, and on conviction be fined in any sum not exceeding \$5,000.

§ 10. SECRETARY—MEETINGS—ANNUAL REPORTS.] It shall be the duty of the board of commissioners to meet annually, the first Tuesday in June of each year, and at such annual meeting they shall elect a secretary, whose compensation shall be determined by the board, and who shall hold his office for one year or until his successor shall be elected and qualified. The board of commissioners shall have four regular meetings in each year and not to exceed two special meetings, and shall have a right to adopt a seal and make rules and regulations not inconsistent with the Constitution of the United States, the Constitution or laws of the State of North Dakota, for the management and government of said Soldiers' Home, including such rules as they shall deem necessary for the preservation of order, enforcing discipline and preserving the health of its inmates. The board of commissioners shall make full and minute reports of the disbursements of the Home and its condition, financial and otherwise, to the Governor of this State, annually, and to each regular session of the General Assembly.

§ 11. COMMANDANT, QUALIFICATION OF — COMPENSATION OF SUBORDINATE OFFICERS.] The board of commissioners shall have the power and it shall be their duty to appoint a commandant for

said Home who shall serve during the pleasure of said board and who shall be one who was honorably discharged from the military or naval service of the United States, who served in the war of the rebellion of 1861 and 1865, whose salary shall not exceed \$1,200 per annum, and who shall nominate, for the approval of the board, all necessary subordinate officers, who shall all be persons either honorably discharged from the service of the United States or widows of honorably discharged soldiers, who may be removed by said commandant for inefficiency or misconduct, but in case of removal he must make a detailed statement of the cause of such removal to the commissioners, and the board shall have the power to reinstate such persons. The compensation of the subordinate officers shall be fixed by the board; *Provided*, None of the foregoing officers shall be chosen until said Home is in condition to receive inmates.

§ 12. FUNDS, HOW RAISED—RESTRICTIONS.] To provide temporarily for the erection and maintenance of said Soldier's Home, the said board of commissioners may receive such sum or sums of money as can be actually used in the construction of permanent buildings, procuring of ground whereon to build the same, and other needed and necessary improvements to be made and expense incurred in connection therewith, not exceeding the sum of \$10,000, and to each person, association, organization or corporation so subscribing and advancing money as aforesaid, the said board of directors shall issue a certificate stating the date of issue and the amount of such subscription, which said certificate shall bear interest at a rate of interest not exceeding 6 per cent. per annum, and shall be made payable from the funds to accumulate in the interest and income fund arising from interest on permanent fund or from rents received for any land set apart for said Home, or from any appropriation that may hereafter be made for that purpose; *Provided*, That until a sufficient amount of money accumulates in the fund provided for that purpose, with which to pay said certificates, the holders thereof shall each be paid a *pro rata* share of all monies to be paid out on said indebtedness; *Provided, further*, That no part of any appropriation hereinafter to be made from the funds of the State of North Dakota, unless specifically appropriated for that purpose, shall ever be used in payment of said indebtedness or any part thereof.

§ 13. FUNDS, HOW KEPT.] All money that may arise from the interest received on all money derived from the sale of lands hereinbefore or that may hereafter be appropriated for said Home, including all money that may be received from the renting of said land, and all monies that may be hereafter appropriated for said Home by the State of North Dakota, including all money raised in any other manner or donated to said Home, shall be deposited with the State Treasurer, to be by him kept in a separate fund, which shall be known as the Soldier's Home Fund, and be used

exclusively for the benefit of said Home as may be herein or hereafter provided.

§ 14. MAJORITY OF BOARD TO APPROVE CONTRACT, ETC.] Every duty and contract to be performed by said commissioners must receive the approval of the majority of the board in regular session duly called in order to make binding and valid. That all proceedings of said board shall be recorded in a book kept for that purpose, and open to the inspection of anybody on request.

§ 15. ACCOUNTS, HOW AUDITED AND PAID.] All money that may come into the Treasury of the State of North Dakota and credited to the Soldier's Home Fund shall be paid out to the parties entitled thereto and the State Auditor is hereby directed to draw his warrant on the fund in the hands of the State Treasurer belonging to said Home upon the written order of the said board of commissioners, which order shall be accompanied by itemized vouchers for the full amount of such order; *Provided*, No such order shall be issued until there is cash in the treasury with which to pay the same.

§ 16. COMMISSIONERS ENTITLED TO ACTUAL EXPENSES ONLY.] The commissioners provided for in this act shall receive no compensation and shall be entitled only to their actual and necessary expenses while performing duties as such commissioners.

§ 17. EMERGENCY.] There being no law authorizing the building of a Soldier's Home and in order to at once select a proper site for the same and receive donations to pay for the same, therefore this act shall take effect and be in force immediately from and after its passage and approval.

Approved March 14, 1890.

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## STATE LIBRARY.

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### CHAPTER 166.

[S. F. 216.]

#### APPROPRIATION FOR STATE LIBRARY.

AN ACT to Provide for the Purchase of Books for the State Library and for the Care and Custody of the same.

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

§ 1. APPROPRIATION—SECRETARY TO PURCHASE BOOKS.] That the sum of \$4,500 for the year 1890, and \$1,000 annually thereafter is hereby appropriated out of the State Treasury, to be ex-



pended by the Secretary of the State in purchasing for the State Library such volumes of Supreme Court reports, digests and statutes of any state or territory, where such volumes cannot be procured by exchange, and for the purchase of such other books or documents as may be deemed desirable for the best uses and purposes of such library.

§ 2. APPROPRIATION FOR CARE AND CUSTODY.] That a sum not to exceed five hundred (500) dollars annually shall be appropriated for the care and custody of said library.

§ 3. ACCOUNTS, HOW PAID.] That upon the presentation of the verified accounts of the Secretary for the purchase and cost of transportation of any such volumes, and for the care and custody of library, the State Auditor shall draw his warrant on the State Treasury for such amounts.

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

§ 5. EMERGENCY.] There being an emergency existing by virtue of there being no provisions for the purchase of books for the State Library, therefore this act shall take effect and be in force from and after its passage and approval.

Approved April 1, 1890.

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## SUPPORT OF MARRIED WOMEN.

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### CHAPTER 167.

[H. F. 214.]

#### WIFE MAY APPEAL TO DISTRICT COURT FOR RELIEF.

##### AN ACT to Provide for the Support of Married Women.

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

§ 1. MAY APPLY TO DISTRICT COURT.] That it shall be lawful for any married woman to apply to the district court of the county in which she resides for an order upon her husband to provide for her support and the support of her minor children, if any, by said husband living with her.

§ 2. WHAT PETITION SHALL SET FORTH.] Her petition shall set forth the facts and circumstances upon which she relies for such order, and if it shall appear to the court, after hearing the parties that said husband is able to support or contribute to the

support of his wife and said children, if any, and that he neglects or refuses to perform his duty in that respect, the court shall have power to make such decree as to the support of said wife and children, if any, by said husband as shall be equitable in view of the circumstances of both parties.

§ 3. FORM OF PRACTICE.] The practice in such cases shall conform as nearly as may be to the practice in divorce cases, and the court shall have power to enforce its orders as in other equity cases.

§ 4. WHEN DECREE MAY BE MODIFIED OR VACATED.] Such decree may be modified or vacated at any time upon the hearing of the parties.

§ 5. EMERGENCY.] Inasmuch as there is urgent necessity for providing for the support of married women without delay, this act shall take effect from, and be enforced from and after its passage and approval.

Approved March 6, 1890.

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## CHAPTER 168.

[S. F. 187.]

### PUNISHMENT FOR ABANDONMENT OF WIFE OR CHILD.

AN ACT Relating to the Punishment of a Father for the Abandonment of His Children and of Husband for the Abandonment of His Wife.

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

§ 1. PENALTY FOR ABANDONMENT OF WIFE OR CHILD.] If any parent shall willfully abandon his or her minor children, or either of them, leaving them, or either of them, in a destitute condition, or being of sufficient ability or able to earn the means of their support, shall unreasonably refuse or neglect to provide for his or her minor child or children, or either of them, or if a husband shall willfully abandon his wife, leaving her in a destitute condition, or being of sufficient ability, or able to earn the means of her support, shall unreasonably refuse or neglect to provide for her, such parent or husband shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be punished by imprisonment in the county jail not less than thirty days nor more than six months.

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

Approved March 31, 1890.

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# SUPREME COURT.

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## CHAPTER 169.

[S. F. 12.]

### PREScribing TERMS AND PROVIDING FOR EXPENSES.

AN ACT Fixing the Times and Places of Holding General and Special Terms of the Supreme Court of the State of North Dakota, and Providing for the Expenses Incident Thereto.

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

§ 1. TERMS OF SUPREME COURT.] That there shall be three general terms of the Supreme Court held each year as follows: One on the second Tuesday of January at the city of Fargo and county of Cass; One on the first Tuesday of May at the city of Bismarck and county of Burleigh; and one on the first Tuesday of October at the city of Grand Forks and county of Grand Forks. Such sessions of the Supreme Court may be held either in the court houses situated at the places aforesaid, respectively, or if such court houses cannot be obtained for any reason, then in any other available building in said places which may be deemed suitable and be procured for that purpose by a majority of the judges of the Supreme Court, without expense to the State.

§ 2. SPECIAL TERMS, HOW CALLED.] That whenever, from any cause, it appears to a majority of the judges of said court that the public interests demand that a special term of the said court be held, the said majority of the said judges have authority to appoint a special term of the Supreme Court to be held at either of the places aforementioned, giving twenty days' previous notice thereof by advertisement published in a newspaper at the seat of government of the State.

§ 3. REPEAL OF CONFLICTING ACTS.] That Chapter 140 of the Session Laws of Dakota Territory for the year A. D. 1885, and Chapter 153 of the Session Laws of Dakota Territory for the year A. D. 1887 (the same being Sections 405, 406 and 407 of the Compiled Laws of Dakota Territory), and all other acts and parts of acts inconsistent herewith are hereby expressly repealed.

§ 4. EMERGENCY.] Whereas, it is necessary that the terms of the Supreme Court be fixed at a date long prior to July 1, 1890, an emergency exists; now, therefore, this act shall take effect and be in force from and after its passage and approval.

Approved January 22, 1890.

## CHAPTER 170.

[S. F. 28.]

## PRESCRIBING DUTIES, FEES AND SALARY OF CLERK OF SUPREME COURT.

AN ACT Defining the Duties and Prescribing the Fees and Fixing the Salary of the Clerk of the Supreme Court.

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

§ 1. CLERK OF SUPREME COURT, HOW APPOINTED.] There shall be a clerk of the Supreme Court, who shall be appointed by the judges of the Supreme Court and who shall hold his office during the pleasure of said judges.

§ 2. OATH—DEPUTY.] The clerk of the Supreme Court, before he enters upon the duties of his office, shall take and subscribe the oath required by the Constitution of the State of North Dakota and execute a bond to the State of North Dakota, with one or more sureties to be approved by the Governor in the penal sum of \$3,000, conditioned for the faithful performance of his duties, which bond shall be for the use of the State, and with said oath, filed in the office of the Secretary of State. The said clerk may appoint a deputy, who shall take and subscribe the oath required by the Constitution, which shall be filed in said court; the said clerk is responsible for the acts of his deputy.

§ 3. TO SECURE NECESSARY RECORDS, STATIONERY, ETC.] The said clerk, unless otherwise provided for by law, shall secure the necessary records, seals, stationery, postage, lights, fuel and furniture for the use of the Supreme Court, the same to be paid for out of the State Treasury by the proper accounting officers thereof, upon the certificate or order of said clerk, endorsed as correct by one of the judges of the Supreme Court.

§ 4. PERSONALLY PERFORM ALL DUTIES.] He shall personally perform all duties assigned him by the law, and the rules of the said court. Whenever the clerk is unavoidably absent and unable to perform his duties, his deputy may perform all the duties of said office.

§ 5. TO FURNISH SYLLABUS FOR PUBLICATION.] Whenever a syllabus is filed by the judges of the Supreme Court, as required by law, the clerk shall immediately thereafter make and furnish a copy thereof to the publishers of such daily papers in the State of North Dakota as consent to publish the same without charge, accompanied with the title of the action.

§ 6 SALARY.] The clerk shall receive an annual salary of

\$1,500, payable in equal monthly installments at the end of each month; such annual salary shall commence to run at the date of filing his oath of office and entering upon his official duties.

§ 7. FEES.] The following are hereby declared to be the fees which shall be charged by the said clerk for performing official acts:

For drawing a writ of error; or other process issued under the seal of said court, one (1) dollar.

Affixing the seal to any process of the court, twenty-five (25) cents.

Filing papers, ten (10) cents for each paper.

Reading and filing any petition relating to any proceeding in court, ten (10) cents.

Entering the appearance or default of appellant or plaintiff, or of defendant or respondent, fifteen (15) cents.

Entering every rule or order, fifteen (15) cents for each folio.

A certified copy of every such rule or order, and of all papers, pleadings and proceedings filed with him, ten (10) cents for each folio.

Entering a decree or sentence, ten (10) cents for each folio.

Entering a judgment or order, fifteen (15) cents for every judgment debtor; ten (10) cents for each folio more than two.

Engrossing a remittitur to be sent to a district court, ten (10) cents for each folio.

Every certificate, twenty-five (25) cents.

Taxing costs, fifty (50) cents.

Entering satisfaction of record, fifteen (15) cents.

Taking security, fifty (50) cents.

Entering each cause in the calendar and making a copy for the bar, ten (10) cents.

Searching records and files in his office, twenty (20) cents for the records and files of each year.

For services required by law or the rules of the court, not herein provided for, such fees as the court directs.

Admission of attorneys, three (3) dollars.

§ 8. FEES TURNED IN QUARTERLY TO STATE TREASURY.] Said clerk shall keep an accurate account of all official fees received by him, and on the first day of January, April, July and October of each year, he shall file with the Auditor of the State of North Dakota a true detailed statement of such fees for the quarter preceding such filing, which statement shall be verified as true and correct by the affidavit of such clerk appended to such statement of fees. With his said statement he shall file with the said Auditor of the State of North Dakota a receipt from the Treasurer of the State of North Dakota, showing all of said monies so received to have been covered into the Treasury of the State of North Dakota.

§ 9. WHEN CLERK TO RECEIVE ADDITIONAL FEES.] In addition to the salary hereinafter prescribed the said clerk shall receive for

his expenses in attending sessions of the Supreme Court of the State of North Dakota, when held at points other than the capital of the said State, the sum of five (5) cents per mile for each and every mile necessarily traveled in going to and returning from said session or sessions, and in addition the sum of two (2) dollars for each and every day when the said clerk is in actual attendance upon the said session or sessions of the said court, said mileage and *per diem* to be in lieu of any other traveling expenses to be allowed said clerk. Upon filing with said Auditor an itemized statement, verified by the oath of said clerk, showing the mileage and per diem as aforesaid, the Auditor shall draw a warrant upon the State Treasurer in favor of said clerk for the amount so shown to be due under such statement.

§ 10. REPEAL.] All acts and parts of acts inconsistent herewith are hereby repealed.

§ 11. EMERGENCY.] That, whereas, it is essential that the fees and salary of the clerk of the Supreme Court should be established and defined as soon as practicable and at a date long prior to July 1, A. D. 1890; now, therefore, for the reasons aforesaid, this act shall take effect and be in force from and after its passage and approval.

Approved December 18, 1889.

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## CHAPTER 171.

[S. F. 53.]

### DUTIES AND COMPENSATION OF SUPREME COURT REPORTER.

AN ACT Regulating the Duties and Compensation of the Supreme Court Reporter and to Repeal Sections 2, 3, 4, 5 and 6 of Chapter 56 of the Session Laws of Dakota Territory of the Year 1879.

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

§ 1. BOND.] The Supreme Court reporter shall give bond to the State, with at least two sufficient sureties, to be approved by the Chief Justice of the Supreme Court, in the sum of \$2,000, conditioned upon the faithful performance of his official duties.

§ 2. DUTIES OF REPORTER.] Said reporter shall, as soon as practicable after opinions of the Supreme Court are filed, prepare accurate copies of such opinions and of all dissenting opinions filed, prefixing thereto copies of the syllabi prepared by the court, the names of counsel in each case, a statement of the facts or pleadings, and an abstract of the briefs of counsel, when he may

deem such statement or abstract necessary or helpful to a full understanding of the case. He may, in his discretion add a brief note referring to prior adjudications.

§ 3. MAY RECEIVE RECORD OF CASES DECIDED FOR PURPOSE OF MAKING REPORT.] It shall be lawful for the reporter to receive at the close of each term of the Supreme Court the records of all causes decided at such term, with the opinions therein, and retain the same for such reasonable time as he may require to prepare the report thereof, when they shall be returned to and remain in the office of the clerk, except two copies of each printed brief and abstract.

§ 4. TO SUPERVISE PUBLICATION OF REPORTS—COPYRIGHT FOR STATE, ETC.] It shall be the duty of the reporter to correct proof, prepare suitable indices for and supervise the publication of all volumes of reports of the decisions of the Supreme Court of North Dakota which may hereafter be published under the authority of this State; and to secure a copyright of each volume of said reports before the same are distributed for the exclusive use and benefit of the State of North Dakota, the procurement of said copyright to be properly printed in each volume, and until provision for such publication shall have been made all copies of decisions, syllabi, statements of facts and pleadings, abstracts of briefs and notes prepared by such reporter in accordance with the provisions of this act shall be filed with the clerk of said court.

§ 5. SALARY.] Said reporter for his services as such reporter shall receive an annual salary of eight hundred (800) dollars, payable quarterly; and for such payments the State Auditor shall draw his warrants on the State Treasurer on or after the first days of April, July, October and January of each year.

§ 6. REPEAL OF CONFLICTING ACTS.] That so much of Sections 2, 3, 4, 5 and 6 of Chapter 56 of the Laws of Dakota Territory of the year 1879, the same being Sections 409, 410, 411 and 412 of the Compiled Laws of Dakota Territory of the year 1887, as conflict with the provisions of this act are hereby expressly repealed.

§ 7. WHEN REPORTS TO BE PUBLISHED.] It shall be the duty of the Supreme Court reporter to publish in book form the opinions of the Supreme Court, together with other matter as contemplated in Section 2 of this act, not sooner than the month of October and not later than the 31st day of December, beginning in the year 1892, and shall publish said opinions and other matter as contemplated by this act biennially thereafter, the publication of said opinions and other matter to be let and paid for in the same manner as other public printing.

§ 8. EMERGENCY.] And, whereas, an emergency exists in this, that a term of said Supreme Court is to be held in the month of January, A. D. 1890, and the duties and salary of said reporter are not defined by law; therefore, this act shall be in force from

and after the passage and approval thereof, the Legislative Assembly by a vote of two-thirds of all the members present in each house so directing.

Approved March 20, 1890.

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## CHAPTER 172.

[H. F. 55.]

### AUTHORIZING PURCHASE OF REMAINING TERRITORIAL SUPREME COURT REPORTS.

AN ACT Providing for the Purchase and Distribution of the Remaining Reports of the Supreme Court of Dakota Territory.

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

§ 1. SECRETARY MAY PURCHASE REPORTS.] That the Secretary of State be and he is hereby authorized and directed to purchase a sufficient number of volumes of the reports of the Supreme Court of Dakota Territory, to be hereafter published by authority of the reporter of said court to comply with the provisions of this act as to distributing said reports; *Provided*, The same can be purchased at a price not to exceed four (4) dollars per volume; and, *Provided*, They are as large in size as volume five of said reports and printed and published in as neat and substantial a manner as said volume.

§ 2. MANNER OF DISTRIBUTION.] That the Secretary of State is hereby instructed to deliver one copy of said reports, when purchased, to the following officers and organizations, to-wit: "Each judge of the Supreme Court of this State, each judge of the district courts of this State, the United State's attorney of this State, the Attorney General of this State, the Library of Congress of the United States, the Library of the Supreme Court of the United States, the Attorney General of the United States, the Governor of this State, the public library of each state and organized territory that has or will exchange reports with this State, three copies to the clerk of the Supreme Court of this State for the use of the court when in session and to deposit five copies in the Library of the State to be retained therein. It is hereby made the duty of each State officer above specified, to deliver the volume or volumes of said reports in his possession to his successor in office upon the expiration of his term of office.

§ 3. AUDITORS OR COUNTY CLERKS TO BE SUPPLIED.] That the Secretary of State is hereby instructed to furnish to the auditor or



county clerk of each county in the State now or hereafter organized three copies of each volume of the above reports.

§ 4. DUTY OF AUDITOR OR COUNTY CLERK.] It is hereby made the duty of the said auditor or county clerk upon receipt of the volumes above specified, to conspicuously mark upon the outside of the cover thereof with ink the words "Property of county of....." (inserting the name of the county of which he is an officer in the space occupied by the blank), and when so marked to deliver one copy of each volume into the custody of the clerk of the district court, the judge of the county court, and state's attorney of the county, and it is made the duty of such officer receiving such volumes to deliver the same over to his successor in office at the expiration of his term of office.

§ 5. AUDITOR TO DRAW WARRANTS.] It is hereby made the duty of the auditor, upon receipt of an account for reports so furnished, duly certified as correct by the Secretary of State, to draw his warrant on the Treasurer for the amounts thereof, and there is hereby appropriated out of any money in the State Treasury not otherwise appropriated an amount sufficient to pay the same.

Approved March 7, 1890.

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## TRUSTS, POOLS AND COMBINATIONS.

### CHAPTER 173.

[H. F. 165.]

#### CERTAIN COMBINATIONS OF GRAIN AND STOCK DEALERS UNLAWFUL.

AN ACT to Prohibit Grain Dealers, Partnerships, Companies, Corporations or Associations from Combining or Entering Into any Agreement or Contract to Pool or Fix the Price to be Paid for Grain, Hogs, Cattle, or Stock of any Kind Whatever, and to Provide Punishment for Violations of the Same.

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

§ 1. WHAT COMBINATIONS OR POOLS DEEMED UNLAWFUL.] That it shall be unlawful for any grain dealer or grain dealers, partnership, company, corporation or associations of grain dealers, or any other person or persons, partnership, company, corporation or association, to enter into any agreement, contract or combination with any other grain dealer or grain dealers, partnership, company, corporation or association of grain dealers, or any other person or

persons, partnership, company, corporation or association, for the pooling of price of different and competing dealers and buyers, or divide between them the aggregate or net proceeds of the earnings of such dealers and buyers, or any portion thereof, or for fixing the price which any grain dealer or grain dealers, partnership, company, corporation or association of grain dealers, or any other person or persons, partnership, company, corporation or association, shall pay for grain, hogs, cattle or stock of any kind or nature whatever; and in case of any agreement, contract or combination for such pooling of prices of different and competing dealers and buyers, or to divide between them the aggregate or net proceeds of the earnings of such dealers and buyers, or any portion thereof, or fixing the price which any grain dealer or grain dealers, partnership, company, corporation or association of grain dealers, or any other person or persons, partnership, company, corporation or association, shall pay for grain, hogs, cattle or stock of any kind or nature whatever, each day of its continuance, shall be deemed a separate offense.

§ 2. LIABILITY OF VIOLATORS OF THIS ACT.] That in case any grain dealer or dealers, partnership, company, corporation or association of grain dealers, or any person or persons, partnership, company, corporation or association, subject to the provisions of this act, shall do or cause to be done, or permit to be done, any act, matter or thing in this act prohibited or declared to be unlawful, or shall omit to do any act, matter or thing in this act required to be done such grain dealer or grain dealers, partnership, company, corporation or association of grain dealers, or any other person or persons, partnership, company, corporation or association, shall be liable to the person or persons injured thereby, to the full amount of damages sustained in consequence of any such violation of the provisions of this act, together with a reasonable counsel or attorney's fee, to be fixed by the court in every case of recovery, which attorney's fee shall be taxed and collected as a part of the costs in the case; and in any such action brought for the recovery of damages, the court before whom the same shall be pending may compel any grain dealer or grain dealers, partnership, company or association of grain dealers, or any person or persons, partnership, company, corporation or association subject to the provisions of this act, or any director, officer, receiver, trustee, agent, employe or clerk of them, or either of them, defendant in such suit, to attend, appear and testify in such case, and may compel the production of the books and papers of such grain dealers, partnership, company, corporation or association of grain dealers, or any other person or persons, partnership, company, corporation or association party to such suit. The claim that any such testimony or evidence may tend to criminate the person giving such evidence shall not excuse such witness from testifying, but such evidence or testimony shall not be used against such person in the trial of any criminal proceeding.

§ 3. PENALTY.] That any grain dealer or grain dealers, partnership, company, or corporation or association of grain dealers, or any other person or persons, partnership, company, corporation or association subject to the provisions of this act, or any director, officer, or any receiver, trustee, clerk, or lessee or agent, or persons acting for or employed by them, or either of them, who alone or with any other partnership, company, corporation, association, person or party, shall willfully do or cause to be done, or shall willfully suffer or permit to be done any act, matter or thing in this act prohibited or declared to be unlawful, or who shall aid or abet therein, or shall willfully omit or fail to do any act, matter or thing in this act required to be done, or shall cause or willfully suffer or permit any act, matter or thing so directed or required by this act to be done, not to be so done, or shall aid or abet such omission or failure, or shall be guilty of any infraction of this act, or shall aid or abet therein, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be fined in any sum not exceeding \$1,000, or imprisonment in the jail of the county not exceeding six months, or both, in the discretion of the court; and shall moreover be liable to the suit of the party injured or damaged.

Approved February 12, 1890.

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## CHAPTER 174.

[S. F. 77.]

### PROHIBITING POOLS, TRUSTS AND CONSPIRACIES.

AN ACT for the Punishment of Pools, Trusts and Conspiracies, and as to Evidence in such Cases.

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

§ 1. POOLS, COMBINATIONS, TRUSTS, ETC., WHEN DEEMED TO BE CONSPIRACIES TO DEFRAUD.] That any corporation organized under the laws of this or any other state or country, for transacting or conducting any kind of business in this State, or any partnership or individual or other association of persons whatsoever, which shall create, enter into, become a member of or party to any pool, trust, agreement, combination, confederation or understanding with any other corporation, partnership, individual, or any other person or association of persons, to regulate or fix the price of any article of merchandise or commodity, or shall enter into, become a member of or party to any pool, agreement, contract, combination or confederation to fix or limit the amount or quantity of any article, commodity or merchandise to be manufactured, mined, produced

or sold in this State, shall be deemed and adjudged guilty of a conspiracy to defraud, and be subject to indictment and punishment as provided by this act.

§ 2 TRUST CERTIFICATES UNLAWFUL.] It shall not be lawful for any corporation to issue or to own trust certificates, or for any corporation, agent, officer or employe, or the directors or stockholders of any corporation, to enter into any combination, contract or agreement with any person or persons, corporation or corporations, or with any stockholder or director thereof, the purpose and effect of which combination, contract or agreement shall be to place the management or control of such combination or combinations, or the manufactured products thereof, in the hands of any trustee or trustees, with the intent to limit or fix the price or lessen the production and sale of any article of commerce, use or consumption, or to prevent, restrict or diminish the manufacture or output of any such article.

§ 3. PENALTY FOR VIOLATION OF THIS ACT.] If a corporation or a company, firm or association shall be found guilty of a violation of this act, it shall be punished by a fine of not less than 1 per cent. of the capital stock of such corporation or amount invested in such company, firm or association, and not to exceed 20 per cent. of such capital stock or amount invested. Any president, manager, director or other officer or agent or receiver of any corporation, company, firm or association, or any member of any company, firm or association, or any individual found guilty of a violation of the first section of this act shall be punished by a fine of not less than five hundred (500) dollars, nor to exceed \$5,000, and in addition thereto may be imprisoned in the county jail not to exceed one year.

§ 4. CONTRACTS IN VIOLATION OF THIS ACT VOID.] Any contract or agreement in violation of any provision of the preceding sections of this act shall be absolutely void.

§ 5. WHEN PURCHASER NOT HELD FOR PURCHASE PRICE OF ANY COMMODITY.] Any purchaser of any article or commodity from any individual, company or corporation transacting business contrary to any provision of the preceding sections of this act, shall not be liable for the price or payment of such article or commodity, and may plead this act as a defense to any suit for such price or payment.

§ 6. CORPORATE RIGHTS FORFEITED FOR VIOLATION OF THIS ACT—SECRETARY OF STATE TO MAKE ENQUIRY.] Any corporation created or organized by or under the laws of this State, which shall violate any provision of the preceding sections of this act, shall thereby forfeit its corporate rights and franchises, and its corporate existence shall thereupon cease and determine; and it shall be the duty of the Secretary of State, after the passage of this act, to address to the president, secretary or treasurer of each incorporated company doing business in this State, a letter of inquiry as to whether said corporation has merged all or any part of

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its business or interest in or with any trust, combination or association of persons or stockholders as named in the preceding sections of this act, and to require an answer, under oath, of the president, secretary, treasurer, or any director of said company; a form of affidavit prescribed by the Secretary of State shall be enclosed in said letter of inquiry; and on refusal to make oath in answer to said inquiry, the Secretary of State shall immediately revoke the charter of said company and make publication of such revocation in four newspapers of general circulation in the four largest cities of the State.

§ 7. WHEN SECRETARY MAY REVOKE CHARTER.] It shall be the duty of the Secretary of State, upon satisfactory evidence that any company or association of persons duly incorporated and operating under the laws of this State have entered into any trust, combination or association as provided in the preceding provisions of this act, to give notice to such corporation, that unless they withdraw from and sever all business connections with said trust, combination or association, their charter will be revoked at the expiration of thirty days from date of such notice.

§ 8. WHO SHALL ENFORCE THIS ACT.] It shall be the duty of the state attorneys in their respective jurisdictions, and the Attorney General, to enforce the foregoing provisions of this act.

§ 9. All acts or parts of acts inconsistent with any of the provisions of this act are hereby repealed.

Approved March 3, 1890.

## UNEXPENDED BALANCES.

### CHAPTER 175.

[H. F. 318.]

#### TRANSFER OF CERTAIN COUNTY FUNDS.

AN ACT to Amend Section 1, Chapter 51, of the Session Laws of 1889, Entitled "An Act to Authorize the Board of County Commissioners of any County to Transfer Unexpended Balances in the County Treasury from the Funding Bond Fund, Road and Bridge Fund or Penalty and Interest Fund to the General Fund."

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

§ 1. DUTY OF COUNTY COMMISSIONERS.] 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.

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

Approved March 31, 1890.

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### CHAPTER 176.

[S. F. 221.]

#### TRANSFER OF FUNDS OF CERTAIN STATE INSTITUTIONS.

AN ACT to Transfer the Unexpended Balances of the Bond Funds of Certain State Institutions to the General Fund.

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

§ 1. WHAT BALANCES TRANSFERRED.] That all unexpended balances of the bond funds of the State University, the North Dakota Hospital for the Insane and the State Penitentiary, as shown

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by the records in the office of the State Treasurer, be and are hereby transferred to the General Fund of the State.

§ 2. EMERGENCY.] There being an emergency in that the General Fund of the State is extremely low and needs replenishment, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 19, 1890.

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## CHAPTER 177.

[S. F. 141.]

### TRANSFER OF APPROPRIATION FOR COMMISSIONER OF IMMIGRATION TO COMMISSIONER OF AGRICULTURE AND LABOR.

AN ACT to Transfer and appropriate the Unexpended Balances of the Appropriation Made for the Office of Commissioner of Immigration by the Sixteenth and Eighteenth Legislative Assemblies of the Territory of Dakota.

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

§ 1. WHAT BALANCES TRANSFERRED.] That all unexpended balances of the appropriations made by the Sixteenth and Eighteenth Legislative Assemblies of the Territory of Dakota for the office of Commissioner of Immigration as made by Chapter 66 of the laws of 1885, and by Chapter 9 of the laws of 1889, as such balances are shown by the records in the office of the Territorial Auditor on the 4th day of November, A. D. 1889, be, and are hereby reappropriated and transferred to the office of Commissioner of Agriculture and Labor of the State of North Dakota for the purpose of being applied on his salary, clerk hire and expense accounts; and the State Auditor is hereby authorized to draw warrants as provided by law upon the State Treasurer for such unexpended balances for all lawful expenses of such institution incurred from and after the 2d day of November, A. D. 1889.

§ 2. EMERGENCY.] There being an emergency existing by reason of the uncertainty as to the authority of the State Auditor to draw warrants upon such appropriations made by the Territorial Legislative Assembly, therefore this act shall take effect and be in force immediately upon its passage and approval.

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

Approved March 12, 1890.

## CHAPTER 178.

[H. F. 13.]

## REAPPROPRIATING BALANCES OF VARIOUS STATE FUNDS.

AN ACT to Transfer and Reappropriate Unexpended Balances of the Appropriations Made by the Eighteenth Legislative Assembly of the Territory of Dakota.

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

§ 1. WHAT BALANCES TRANSFERRED AND REAPPROPRIATED.] That all unexpended balances of the appropriations made by the Eighteenth Legislative Assembly of the Territory of Dakota, for the University of North Dakota, the Penitentiary at Bismarck, the North Dakota Hospital for the Insane, the Railroad and Warehouse Commission, for fuel at the capitol, for maintenance of offices, and for annual reports of public officers, as may by Chapters 9, 25, 100, 102, and 108, of the laws of 1889—as such balances are shown by the records in the office of the Territorial Auditor on the 4th day of November, A. D. 1889—be and are hereby transferred to the State of North Dakota, and so much thereof as may be necessary for the maintenance of the said institutions until March 8, A. D. 1890, is hereby reappropriated for the purposes expressed in said appropriation acts; and the State Auditor is hereby authorized to draw warrants as provided by law upon the State Treasurer for such unexpended balances for all lawful expenses of such institutions and boards incurred from and after the 2d day of November, A. D. 1889.

§ 2. EMERGENCY.] There being an emergency existing by reason of the uncertainty as to the authority of the State Auditor to draw warrants upon such appropriations made by the Territorial Legislative Assembly, this act shall take effect and be in force immediately upon its passage and approval.

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

Approved December 18, 1889.



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# UNIVERSITY.

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## CHAPTER 179.

[S. F. 33.]

### PROVIDING FOR LIBRARY.

AN ACT to Provide the University of the State of North Dakota with the General and Special Laws and the Reports of the Decisions of the Supreme Court for Library Purposes.

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

§ 1. SECRETARY TO DELIVER CERTAIN BOOKS.] The Secretary of the State shall deliver to the University of North Dakota fifty copies of each volume of the General and Special Laws of the State, the reports of the decisions of the Supreme Court, hereafter published, for use in the way of exchanges and otherwise in the establishment and maintenance of a law library for the law department of said university.

§ 2. EXTRA COPIES OF SUPREME COURT REPORTS, ETC.] The Secretary of the State is hereby authorized and directed to procure for the purpose aforesaid from the publishers of the Supreme Court reports fifty copies of each volume thereof hereafter published, in addition to the number authorized for other purposes, to be paid for at the same price and in the same manner as such reports are delivered to the Secretary for other purposes.

§ 3. SECRETARY TO FURNISH CERTAIN LAWS, REPORTS, ETC., HERETOFORE PUBLISHED.] The Secretary of State is hereby authorized and directed to deliver to the University of North Dakota, for the purposes aforesaid, five copies of each volume of the General and Special Laws and Supreme Court reports heretofore published, if he shall have in his possession so many copies, not required by law to be disposed of for other specific purposes, or so many of each of said volumes not exceeding five, as he shall have in his possession, not so required by law for other specific purposes; and if he shall not have in his possession, subject to delivery to the university, under the provisions aforesaid five copies of each volume of said reports, of which additional copies may now be obtained from the publishers by the State, under existing contracts, at the price now paid by the State for such reports, he is authorized and directed to procure from the publishers, to be paid for at the price, and in the manner aforesaid, and deliver to

the university enough additional copies of every such volume to make the number of five.

§ 4. This act shall take effect and be in force from and after July 1, 1890.

Approved February 6, 1890.

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## CHAPTER 180.

[H. F. 228.]

### SCHOOL OF MINES.

AN ACT to Amend Section 9 of Chapter 40 of the General Laws of 1883, Entitled "University of North Dakota."

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

§ 1. LOCATION OF SCHOOL OF MINES—MILITARY DEPARTMENT OF UNIVERSITY.] That Section 9 of Chapter 40, of the General Laws of the Territory of Dakota of 1883, be and the same is hereby amended by changing the number of Subdivision 4 to Subdivision 6 and adding to said Section 1 the following subdivisions after Subdivision 3 of said section, and to be known as Subdivision 4 and Subdivision 5, and which shall read as follows:

"4. The School of Mines, the object of which shall be to furnish facilities for the education of such persons as may desire to receive instruction in chemistry, metallurgy, mineralogy, geology, mining, milling and engineering."

"5. The military department or school, the object of which shall be to instruct and train students in the manual of arms and such military maneuvers and tactics as are taught in military colleges."

Approved March 31, 1890.

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## CHAPTER 181.

[H. F. 100.]

### LOAN OF MUSKETS.

AN ACT Authorizing the Adjutant General to Loan to the Trustees of the University of North Dakota One Hundred Muskets for Use of Students Therein.

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

§ 1. LOAN OF MUSKETS AUTHORIZED.] That the Adjutant General, or whoever may be in charge of State arms, be and he is hereby authorized, by and under the direction of the Governor,

to loan for an indefinite period to the trustees of the University of North Dakota, 100 muskets and accoutrements, or as many thereof as can be spared, not exceeding that number, the same to be used by the students of said University for drill purposes.

§ 2. WHEN SUCH ARMS MAY BE CALLED IN.] That in case an emergency shall arise whereby the use of said arms and accoutrements by the State shall be necessary, the Governor or Adjutant General under his instructions shall have and are hereby granted the power to call in the same, and the trustees of said University shall immediately turn the same over to such officer in good condition.

§ 3. EMERGENCY.] Inasmuch as there is no law authorizing the Adjutant General to comply with the provisions of this act, and in due consideration of the fact that it is very desirable for the students to be supplied with these arms at once, it is deemed that an emergency exists, and this act shall go into effect on and after its passage and approval by the Governor.

Approved March 6, 1890.

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## UNIFORM ACCOUNTS.

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### CHAPTER 182.

[S. F. 173.]

#### UNIFORM SYSTEM OF ACCOUNTING FOR CERTAIN PUBLIC FUNDS.

AN ACT to Establish a Uniform System of Accounting for Public Funds in the State Educational, Charitable and Correctional Institutions, and to Appropriate Miscellaneous Receipts for the said Institutions.

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

§ 1. WHAT INSTITUTIONS GOVERNED BY THIS ACT.] There is hereby established a uniform system of accounting for public funds in the following named institutions of the State of North Dakota, namely: The State University, the State Hospital for the Insane, the State Penitentiary, and all other similar State institutions which may hereafter be established by law.

§ 2. ACCOUNTING OFFICER TO BE APPOINTED—DUTIES OF—PURCHASING AGENT—DUTIES OF.] It shall be the duty of the managing board of each of the State institutions mentioned in Section 1 to designate an accounting officer, whose duty it shall

be to keep or supervise the financial accounts of the institutions and to perform such other duties as shall be prescribed by law or by said managing board. They shall also designate either the said accounting officer or some other officer of the institution to act as a purchasing agent, whose duty it shall be to purchase all goods and supplies needed for the institution, under such rules and regulations as the said managing board shall prescribe.

§ 3. INSTITUTION TREASURER—DUTIES OF.] It shall be the duty of the managing board of each of the institutions named in Section 1, within three months after the passage of this act to appoint an institution treasurer, which treasurer shall be either some trustworthy person residing in the city or village at which the institution is located or some solvent national or state bank in said city or village. The said treasurer shall give bonds in such sum as the managing board may require, to be approved by said managing board, and to be subject to the approval of the Governor. It shall be the duty of the said treasurer to hold and safely keep all public funds belonging to the said institution which may come into said treasury from any source, and to pay out the same only on written orders, signed by the accounting officer of the institution, and countersigned by a member of the managing board, who shall have been authorized by vote of the board to sign such orders.

§ 4. CARE AND CUSTODY OF FUNDS BELONGING TO INMATES.] It shall be the duty of each superintendent of the several institutions named in this act to have the care and custody of any funds belonging to inmates of the said institutions which may come into his hands, to keep accurate accounts of such funds on books provided for that purpose and to pay out such funds under such rules and regulations as may be established by law or prescribed by the board of management, taking proper vouchers therefor in all cases; and every such superintendent shall give bonds in such sum as may be required by law, or may be prescribed by the board of managers of such institution, to be subject to the approval of the public examiner, conditioned upon the faithful performance of his duties and the due accounting for the funds entrusted to his care.

§ 5. (a) FUNDS BELONGING TO INSTITUTIONS TO BE PAID OVER TO SUPERINTENDENT.] It shall be the duty of every officer and employe of the several institutions named in this act to pay over to the superintendent of the institution without delay, any funds which may come into his hands belonging to any inmate of the institution, and pay over to the accounting officer of the institution without delay, any funds which may come into his hands belonging to the institution.

(b) DUTIES OF ACCOUNTING OFFICER IN RELATION TO CERTAIN MONIES.] It shall be the duty of the accounting officer of each institution at the close of each month or oftener, to pay over to the institution treasurer all institution funds which may have come into his hands, from sales of public property, board of inmates, labor of

inmates or from other sources, and at the close of each fiscal quarter to draw an order on the institution treasurer, in favor of the State Treasurer for the amount of all such miscellaneous receipts, and at the same time to forward to the State Auditor a statement of the amount of the same, and the sources from which they have arisen.

(c) DUTIES OF STATE AUDITOR AND TREASURER.] It shall be the duty of the State Auditor, upon receiving such statement, to place in the hands of the State Treasurer a draft for the amount upon the institution treasurer, specifying the fund to which the same is to be credited, and upon payment of such draft, to place the amount so received to credit of such institution, adding to it any appropriations that may have been previously made by the legislature for the said institution, distributing it to the several appropriations from which it may have arisen, or to the current expense appropriation according to his discretion; *Provided*, That the miscellaneous receipts of the State Penitentiary and the State Reformatory shall be paid over to the State Treasurer monthly instead of quarterly in like manner as herein provided.

§ 6. DUPLICATE MONTHLY PAY ROLLS, BILLS FOR SUPPLIES FURNISHED, ETC.] It shall be the duty of the accounting officer of each institution named in Section 1 to prepare a duplicate monthly pay roll or pay rolls, showing the services rendered by each officer and employe of the institution, which pay roll shall contain the receipt of said officers and employes for the orders issued to them in payment for their services. Services rendered or labor performed by persons other than officers and employes, shall be accounted for on proper vouchers made. The said accounting officer shall require all persons selling goods or supplies to the institution to furnish with such goods when delivered, bills or invoices in duplicate, and he may require persons who furnish goods at intervals during the month, to furnish also a detailed statement in duplicate, at the close of the month. The said bills and invoices shall, whenever practicable, be made upon the bill heads or blanks used by such persons in their business.

§ 7. MANNER OF FILING BILLS, ETC.—DUPLICATES TO BE SENT TO STATE AUDITOR.] Each of the original and duplicate bills mentioned in Section 6 shall be enclosed in an envelope or jacket, on one side of which shall be a classification of the items contained in the bill, and on the other side a receipt in the following form:

Received on the.....day of.....18...., from the.....  
 .....(here insert the name of the accounting officer) of the  
 .....(here insert the name of the institution) an order on  
 the treasurer of the.....for the sum of.....dollars, in pay-  
 ment of the within account.

Any pay rolls and vouchers for services rendered or labor performed shall be enclosed in similar envelopes or jackets. One of the said duplicate pay rolls or bills, with the accompanying receipts, shall be retained by the said accounting officer in the files

of the institution; the other shall be sent to the Auditor of State, within thirty days after the issuance of an order on the institution treasurer for the payment of the same.

§ 8. DUTY OF STORE-KEEPER.] It shall be the duty of the store-keeper of each institution, or some person to be designated by the superintendent, to check off all goods and supplies, when received by the invoices; to certify thereon the quantity and condition of the same, and to notify the superintendent or the accounting officer forthwith, in case the said goods or supplies do not appear to be of the kind or the quality purchased or bargained for. In case goods are received without an invoice, it shall be the duty of such store-keeper or designated person to make a memorandum bill of such goods and certify thereon, as herein required.

§ 9. EXPENSE LISTS TO BE PREPARED MONTHLY BY ACCOUNTING OFFICER.] It shall be the duty of the accounting officer of the State institutions named in Section 1, at the close of each month to make, or cause to be made, an expense list for expenses incurred during the month under appropriations for current expenses and a separate expense list for expenses incurred under appropriations for other purposes, showing the name of each person rendering service or furnishing supplies, the nature of the service rendered and at what rate, the quantity, kind, price and cost of supplies furnished, and the amount to which each person is entitled by law; *Provided*, That the Auditor of the State may in his discretion allow items of the same class amounting to less than one (1) dollar each, except food items, to be consolidated on the expense list as "sundries." Said expense list shall be audited by the managing board or a committee of the same, and shall be certified by the accounting officer of each institution and a member of the managing board, to be designated by the said board, and shall be forwarded to the Auditor of State by the accounting officer, not later than the eleventh day of the succeeding month.

§ 10. DUTY OF AUDITOR IN RELATION TO SUCH EXPENSE LISTS—TO DRAW WARRANTS FOR AMOUNTS FOUND DUE.] On receipt of such certified expense lists, the Auditor of State shall examine, adjust and approve, suspend, or reject the same, and on or before the sixteenth day of each month draw his warrants on the State Treasurer for the amounts due thereon to each institution, and no money shall be paid out of the State Treasury for the use of the said institution except on expense lists duly certified; *Provided*, That the Auditor of State may, in his discretion, draw his warrants for an amount not exceeding 20 per cent. in addition to the amount of the said expense list, to be used for the immediate payment of such accounts as he may authorize to be so paid; said payments to be properly accounted for on the next monthly expense list.

§ 11. WHEN AUDITOR TO CANCEL UNEXPENDED APPROPRIATIONS.] It shall be the duty of the Auditor of State, upon the passage of

this act and at the close of each biennial period thereafter, to cancel all unexpended appropriations or balances of appropriations which shall have remained undrawn for the period of two years after the expiration of the biennial period during which they become available under the law; *Provided*, That the Governor, Secretary of State, and Attorney General may continue such appropriations or balances in force, temporarily, on recommendation of the Auditor of State.

§ 12. APPROPRIATION OF MISCELLANEOUS RECEIPTS.] There is hereby appropriated for the use of the several institutions named in Section 1 of this act, all the funds into the State Treasury from miscellaneous receipts under Section 5 of this act.

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

Approved March 31, 1890.

## CHAPTER 183.

[H. F. 10.]

### UNIFORM SYSTEM OF ACCOUNTS FOR AUDITOR AND TREASURER.

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. AUDITOR TO KEEP ACCOUNT WITH EACH COUNTY.] The State Auditor shall keep an account with each organized county of the State, in which account each county shall be charged with the amount of delinquent tax now due the State, and with all sums hereafter levied in each county for State purposes; and credited with all sums paid into the State Treasury on account of such taxes.

§ 2. COUNTY AUDITORS TO FURNISH ABSTRACT OF TAX LISTS.] He shall require county auditors or county clerks to furnish him with an abstract of the tax lists of their respective counties when the same are completed on such blanks as he shall prescribe.

§ 3. COUNTY TREASURERS TO FURNISH QUARTERLY STATEMENTS OF TAXES COLLECTED.] He shall require the several county treasurers to furnish him with a statement, attested by the county auditor, on the 1st days of March, June, September and December of each year, showing the amount of State taxes collected during the preceding three months, and the December statement shall be an abstract of the total receipts by the county treasurer for the preceding year.

§ 4. AUDITOR TO DELIVER TO STATE TREASURER ORDER ON COUNTY TREASURER FOR AMOUNT DUE STATE.] The State Auditor shall, after receiving the quarterly statement provided for in Section 3 of this act, draw and deliver to the State Treasurer an order on each county treasurer, for the amount so certified as collected for the State, and charge the State Treasurer with the same, giving the county credit for the amount, and sending to the county auditor of each county a duplicate of such order or draft.

§ 5. DUTY OF STATE TREASURER TO NOTIFY COUNTY TREASURER.] The State Treasurer shall notify each county treasurer of the amount of such draft or order, and designate the manner in which the money shall be forwarded to him, and upon receipt of the same, shall forward such draft or order to the county treasurer with his endorsement, and such draft or order shall be the county treasurer's receipt for the amount stated.

§ 6. LEVY AND ASSESSMENT ON CORPORATIONS AUTHORIZED TO PAY TAX TO STATE TREASURER.] All railroad and telegraph companies or other corporations required by law to pay taxes or assessments to the State Treasurer, shall report to the State Auditor the sums or amounts upon which such tax or assessment is required by law to be levied, and the State Auditor shall make such levy or assessment and draw on such companies or corporations for the sum due, making the draft payable to and delivering the same to the State Treasurer and charging him with the amount of such draft.

§ 7. DUPLICATE RECEIPTS.] Every State officer required by law to pay monies into the State Treasury shall take duplicate receipts for such payments, one of which shall be filed with the State Auditor forthwith upon the receipt of the same, and the Auditor shall charge the Treasurer with the amount thereof.

§ 8. APPORTIONMENT OF MONIES BELONGING TO COUNTIES TO BE MADE BY AUDITOR AND TREASURER.] The apportionment of all monies paid into the State Treasury, any part of which is required by law to be paid to the several counties, or to municipal corporations, shall be made by the Auditor and Treasurer, and each shall keep an account with such counties or corporations, crediting them with all such apportionments and charging them with all sums paid to them. The Auditor shall draw an order on the State Treasurer for the amount so credited, and forward the same to the treasurer of such county or corporation, and at the same time send a written notice to the auditor or clerk of such county or corporation, stating the amount so apportioned.

§ 9. MONIES, HOW PAID FROM TREASURY.] Monies shall be paid from the State Treasury only upon the warrant or order of the Auditor, and each warrant shall specify upon what fund, or from what appropriation such warrant is to be paid; *Provided, however,* That the Treasurer may redeem outstanding bonds, or pay interest on bonds when due, without the Auditor's warrant, retaining



such bond or interest coupon as his voucher for such payment until the next succeeding settlement.

§ 10. ACCOUNT CURRENT BETWEEN AUDITOR AND TREASURER.] The Auditor shall keep an accurate account current with the Treasurer, charging him with all monies received, and crediting him with all sums paid out, upon the surrender of the vouchers for such payments.

§ 11. MONTHLY STATEMENTS.] The Treasurer and Auditor shall on the first day of each month have a full settlement of the business of the preceding month, at which settlement the Treasurer shall turn over to the Auditor all vouchers for payments made by him, taking the Auditor's receipt for the same.

§ 12. SEPARATE ACCOUNTS WITH THE SEVERAL APPROPRIATIONS.] The Auditor and Treasurer shall each keep a separate account with the several appropriations made by the Legislative Assembly, and also with each fund created by the sale of bonds, and each permanent or current fund created by law.

§ 13. TO PROCURE BLANKS, BOOKS, ETC.] The Auditor and Treasurer are hereby authorized and empowered to procure the necessary books and blanks to enable them to comply with the provisions of this act.

§ 14. AUDITOR TO TRANSFER CERTAIN BALANCES.] In order to comply with the provisions of Section 1 of this act, the Auditor is hereby required to copy or transfer the balances of the several accounts in the treasurer's "assessment ledger," in opening the accounts provided for in said section.

§ 15. EMERGENCY.] Whereas, an emergency exists, in that it is necessary and desirable that the books and accounts of the Treasurer and Auditor should be properly opened and arranged and a system of checks between the offices be established from the commencement of such accounts; therefore, this act shall take effect and be in force immediately upon its passage by the Legislative Assembly and its approval by the Governor.

§ 16. All acts or laws or parts of acts or laws of the late Territory of Dakota, and now in force in the State of North Dakota, in any manner conflicting with this act are hereby repealed.

Approved February 4, 1890.

# USURY.

## CHAPTER 184.

[H. F. 39.]

### DEFINING USURY AND THE PENALTY FOR TAKING THE SAME.

#### AN ACT Defining Usury and the Penalty for Taking the Same.

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

§ 1. LEGAL RATE 7 PER CENT.] Interest for any legal indebtedness shall be at the rate of 7 per centum per annum, unless a different rate is contracted for in writing, and all contracts shall bear the same rate of interest after they become due as before; unless it clearly appears therefrom that such was not the intention of the parties; and no contract for a greater rate of interest than 12 per centum per annum shall be valid.

§ 2. HIGHEST RATE 12 PER CENT.] No person, company or corporation shall directly or indirectly take or receive, or agree to take or receive, in money, goods or things in action, or in any other way, any greater sum, or any greater value for the loan or forbearance of money, goods or things in action than 12 per centum per annum; and in the computation of interest upon any bond, note or other instrument or agreement, interest shall not be compounded, but any contract to pay interest not usurious upon interest over due shall not be construed to be usury.

§ 3. GREATER RATE THAN 12 PER CENT. DECLARED USURIOUS—PROVISO.] All bonds, bills of exchange, promissory notes, mortgages, contracts and securities whatsoever, and all deposits or pledges of goods, wares, merchandise, or property of any kind, or things in action whereby or whereupon there shall be directly or indirectly taken, reserved or secured, or agreed to be taken, reserved or secured, any greater sum or value for the use, loan or forbearance of money or things in action than is provided in Section 1 of this act, whether the sum or value so secured, reserved [received] or taken or agreed to be taken shall appear in or from such bond, bill, note, assurance, mortgage, contract, or otherwise, shall be deemed usurious, and are hereby declared to be void from the beginning; *Provided*, That the provisions of this section shall not apply to nor invalidate the collection of any negotiable bill of exchange or promissory note purchased of the original holder in good faith for a valuable consideration before the maturity of the same; and, *Provided, further*, That the payment of interest in ad-

vance for any time not exceeding ninety days at a rate not exceeding 12 per cent. per annum shall not be deemed to be usury within the meaning of this act.

§ 4. EXACT AMOUNT OF INTEREST TO BE STATED IN CONTRACT.] In all written contracts for the loan of money the exact amount agreed upon to be received for the use, by the borrower, shall be stated in the contract, and separately therefrom, the rate per cent. thereon of interest contracted to be charged, and if in any contract, either verbal or written, for the loan of money, the borrower receives a less sum than the principal sum so agreed upon and contracted to be loaned to and received by the borrower, the said contract shall be deemed to be usurious except as otherwise herein provided.

§ 5. WHEN MAKER OF USURIOUS NOTE MAY RECOVER FROM ORIGINAL OWNER.] In all cases where the original owner or receiver of any usurious bill of exchange or promissory note, shall sell or part with the same before maturity thereof, or without giving notice to the purchaser or receiver of such bill of exchange or promissory note of its usurious character, the maker of such usurious negotiable bill, bill of exchange or promissory note, or his legal representatives or assigns may recover of such original owner or receiver, or from any broker or agent or person who procured or aided or assisted in inducing and procuring the execution and delivery of the same, jointly or severally, the full amount of the principal and interest named in and represented by such bill of exchange or promissory note, the interest in case of recovery to be computed to the time when such bill of exchange or promissory note shall become due and payable according to the terms thereof.

§ 6. RIGHT OF ACTION TO RECOVER FROM ORIGINAL OWNER OR RECEIVER—PROVISIO.] The right of action to recover from the original owner or receiver, or from any broker, agent or person who aided or assisted in inducing and procuring the execution and delivery by any person, of a usurious negotiable bill of exchange or promissory note, the amount of the principal sum named in such bill or note, with interest thereon at the rate specified in such bill or note until the maturity thereof shall arise and accrue and be complete to the maker of such usurious negotiable bill of exchange or promissory note, or to his legal representatives or assigns, on and after the sale before maturity of such bill of exchange or promissory note by such original owner or receiver; and in such action it shall not be necessary for the plaintiff to allege or prove the payment of such usurious negotiable bill of exchange or promissory note; nor shall the payment of such usurious bill of exchange or promissory note be a condition precedent to the collection, from the original owner or receiver of such bill of exchange or note, or from any broker, agent or person in anywise a party to, or aiding and abetting in the soliciting or procuring of the execution and delivery of such bill of exchange or promissory note sold before maturity, of the full amount speci-

fied in such bill of exchange or promissory note, with interest as specified therein to the date of maturity thereof; *Provided*, That the provisions of this section shall not apply to nor prevent the collection of any bond, bill of exchange, promissory note, mortgage, conveyance or other contract of security while in the hands of the original or any holder who has not participated in such fee or compensation, nor authorized the taking of the same.

§ 7. RECEIPT OF OR AGREEMENT TO TAKE USURY VOID FROM BEGINNING.] The receipt of or an agreement by any broker, loan agent or person to receive from any person a sum of money or other consideration as a fee or compensation for obtaining a loan or forbearance of money, or an extension of time on an existing loan or forbearance of money, where such sum of money or other consideration received or agreed to be received, as a fee or compensation by such broker, loan agent or person, when added to the rate of interest expressed and reserved in the bond, bill of exchange, promissory note, mortgage or other security made or given to evidence or to secure such loan, exceeds in the aggregate the rate of 12 per centum per annum, interest shall be deemed and is hereby declared to be usury within the meaning of this act, and all and every bond, bill of exchange, promissory note, mortgage or other contract or security, thus or in like manner tainted with usury or usurious purposes, shall be void from the beginning and subject to the same provisions and liabilities and provisos, and the maker of such usurious bill of exchange, promissory note, mortgage, security or other contract shall have the same remedy in the law against the original owner or receiver of any such usurious bond, bill, note, mortgage, or other contract or security, or against any broker, agent, or person who procured, or aided or assisted in procuring the execution and delivery of any such usurious bond, bill, note, mortgage or other contract or security, as is provided for by the preceding sections of this act.

§ 8. PERSONS OFFENDING AGAINST THIS ACT TO ANSWER, ON OATH, ANY COMPLAINT, ETC., ON ORDER OF COURT.] Every person, company, or corporation offending against this act shall be compelled by an order of court to answer on oath any complaint that may be exhibited or filed against him in the district court for the proper county for the discovery of any sum of money, goods, or things so taken, accepted, or received in violation of any of the foregoing provisions.

§ 9. WHEN PARTY TO ACTION MAY BE WITNESS IN HIS OWN BEHALF.] Whenever in any action in any court the question of usury shall be raised either by complaint or answer, either party to the action may be a witness in his own behalf on the trial, except in actions in which the opposite party sues or defends as administrator or personal representative of a deceased person; except, also, actions in which the opposite party claims as assignee and the assignor is deceased.

§ 10. WHEN COURT MAY DECLARE USURIOUS NOTE, ETC., VOID.]

Whenever it shall satisfactory appear to a court that any bond, bill, note, assurance, pledge, mortgage, contract, security or other evidence of debt has been received in violation of the provisions of this act, the court shall declare the same to be void, and enjoin any proceedings thereon, and shall order the same to be cancelled and delivered up.

§ 11. BUILDING AND LOAN ASSOCIATIONS EXEMPT.] None of the provisions of this act shall apply to any building and loan association incorporated under the provisions of any law of this State.

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

Approved March 31, 1890.

## VETERINARY SURGEON.

### CHAPTER 185.

[H. F. 302.]

#### RELATING TO 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 veterinary surgeon, who shall be known as the "State Veterinary Surgeon," and on entering on his duties shall take an oath to well and truly perform his duties as provided by law.

§ 2. DUTIES.] The duties of said Veterinary Surgeon shall be as follows:

First. To investigate any and all cases of contagious or infectious diseases among cattle, horses, mules, asses, and other domestic animals in this State of which he may have a knowledge, or which may be brought to his notice by any resident in the locality where such disease exists, and it shall be his duty in the absence of specific information to make visits of inspection to any locality where he may have reason to suspect that there are contagions or infections.

§ 3. 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 Veterinary Surgeon shall have authority to order the quarantine of the infected premises, and in case such disease shall become epidemic in any locality in this State, the State Veterinary Surgeon shall immediately notify the Governor of the State, who shall thereupon issue his proclamation, forbidding any animal of the kind among which said epidemic exists to be transferred from said locality without a certificate from the State Veterinary Surgeon showing such animal to be healthy. The expenses 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 stock.

§ 4. WHEN MAY ORDER SLAUGHTER OF DISEASED ANIMALS.] In case of any epidemic diseases, where premises have been previously quarantined by the State Veterinary Surgeon, 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 Veterinary Surgeon with the Governor of the State, and the duplicate given to said owner.

§ 5. ANNUAL REPORT TO GOVERNOR—GOVERNOR TO TRANSMIT REPORT TO COUNTY COMMISSIONERS.] The State Veterinary Surgeon 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 eruption of disease, in each locality, its cause, and the measures adopted to check it.

§ 6. CONTAGIOUS DISEASES TO BE REPORTED TO VETERINARY SURGEON—PENALTY FOR FAILURE.] It shall be the duty of any person or persons who shall have 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 Veterinary Surgeon, and a failure so to do, or any attempt to conceal the existence of such diseases, or to willfully or maliciously obstruct or resist the State Veterinary Surgeon in the discharge of his duty as hereinbefore set forth, 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 five hundred (500) dollars 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 not less than thirty days nor more than six months.

§ 7. REGULATIONS IN CASES OF DISEASE.] The following regulations shall be observed in all cases of disease covered by this act.

1. It shall be unlawful to sell, give away, or in any manner part with any animal, affected with, or suspected of being affected with 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.

2. 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 five hundred (500) dollars. It shall be the duty of the owner or person having in charge any animal affected with or suspected of being affected with any contagious or infectious disease, to immediately confine the same in a safe place isolated from other animals, and with all necessary restrictions to prevent the dissemination of the disease until the arrival of the State Veterinary Surgeon. The above regulations shall apply as well to animals in transit through the State as to those resident therein; and the State Veterinary Surgeon or his duly authorized agent shall have full authority to examine, whether in car, or yards, or pastures, or stables, or upon the public domain, all animals passing through the State or any part of it, and on detection or suspicion of disease, take possession of and treat, and dispose of animals in the said manner as is prescribed for animals resident in the State.

§ 8. SALARY—TRAVELING EXPENSES—QUALIFICATIONS OF VETERINARY—TERM OF OFFICE—BOND.] The State Veterinary Surgeon shall receive for his services the sum of \$1,000 per annum, together with his necessary traveling expenses, not exceeding five hundred (500) dollars in any one year, actually paid out when in performance of his duty. 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 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 Veterinary Surgeon 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 five years actual practice as a veterinary surgeon. 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 Veterinary Surgeon receive any mileage.

§ 9. WHERE STOCK TO BE QUARANTINED.] The State Veterinary Surgeon shall select the place or places where stock shall be quarantined.

§ 10. 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.

§ 11. DUTIES OF STATE'S ATTORNEYS AND ATTORNEY GENERAL.] It is hereby made the duty of the Attorney General or state's attorney of the respective counties to prosecute any case complained of 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.

§ 12. EMERGENCY.] Whereas, an emergency exists in that, in order to carry out the provisions of this act, it is necessary that the State Veterinary Surgeon should be appointed prior to July 1, 1890; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 29, 1890.

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## CHAPTER 186.

[S. F. 90.]

### REPEALING VETERINARY SURGEON LAW OF 1887.

AN ACT to Repeal Chapter 32 of the Session Laws of 1887, Entitled "An Act to Suppress and 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. REPEAL.] That Chapter 32 of the Session Laws of 1887, be, and the same is hereby repealed.

Approved February 20, 1890.



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# WAREHOUSES.

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## CHAPTER 187.

[H. F. 50.]

### TO REGULATE THE BUYING, SELLING AND HANDLING OF GRAIN OF ALL KINDS.

AN ACT Entitled "An Act to Regulate the Buying, Selling and Handling of Grain of all Kinds, and to Regulate the Grading of the Same and to Provide for the Manner in which Grain may be Received for Storage, and the Conditions on which the Same may be Returned to the Owner, and to Regulate Matters Connected with the Business of Warehousing and Grain Dealing."

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

§ 1. WHO DECLARED PUBLIC WAREHOUSEMEN.] For the purposes of this act all persons engaged in the business of buying and selling grain at a fixed place, and in a building erected and maintained for that purpose, are declared to be public warehousemen.

§ 2. WHO SUBJECT TO PROVISIONS OF THIS ACT.] Any person or persons, or company, firm or corporations who shall be engaged, or engage in the business expressed in Section 1 of this act, shall be subject to the rules and regulations as hereinafter provided for.

§ 3. NOTICE OF INTENTION TO ENGAGE IN BUSINESS TO BE FILED WITH REGISTER OF DEEDS.] Before engaging in the business expressed in the title of this act, all persons, firms, companies or corporations shall file or cause to be filed with the register of deeds of the county in which the business is to be conducted a notice of intention to engage in such business, stating at what particular point within the county the business is to be transacted, and in what building.

§ 4. WHAT NOTICE TO CONTAIN—BOND.] In filing notice as provided in Section 3 of this act the person or persons, firm, company or corporation shall state whether or not the business of storing grain for a compensation is to be carried on in connection with the buying and selling, and if such storage business is contemplated, then the person or persons, firm, company or corporation giving such notice, shall likewise cause to be filed with the register of deeds in the county where the business is to be con-

ducted a bond in the sum of \$2,000 for every elevator or warehouse of 10,000 bushels capacity or less, and a bond of \$3,000 for every elevator or warehouse of more than 10,000 bushels and not exceeding 20,000 bushels, and a bond of \$5,000 for every elevator or warehouse of more than 20,000 bushels and not exceeding 40,000 bushels capacity, and a bond of \$7,000 for every elevator or warehouse whose capacity shall exceed 40,000 bushels but not exceed 60,000 bushels, and for all elevators or warehouses whose capacity shall exceed 60,000 bushels a bond for \$10,000 shall be given, such bonds to be given to the State of North Dakota, and to be conditioned on a faithful compliance with the provisions of this act.

§ 5. BONDS, HOW APPROVED.] Any and all bonds given by any person or persons, firm, company or corporations shall be signed by at least two good and sufficient sureties, and the bond and sureties thereon shall be approved by the register of deeds of the county where the elevator is situated, for which purpose he is hereby empowered.

§ 6. BOND, WHEN DEEMED CONTINUOUS.] The bonds provided for in this act shall continue in effect until August 1st next after the making of the same; *Provided*, That for the purpose of securing persons who may hold or have held storage receipts during the continuance of the bond or bonds against abuse, discrimination, loss or fraud by or on the part of the person or persons, firm, company or corporation, conducting or having conducted or doing such storage business, the bond shall be deemed continuous.

§ 7. BOND NOT REQUIRED, WHEN.] No person or persons, firm, company or corporation who shall buy and sell grain, but shall not store the same for a compensation, shall be required to give a bond as hereinbefore provided.

§ 8. ALL PUBLIC WAREHOUSEMEN SUBJECT TO ALL THE PROVISIONS OF THIS ACT.] Any person or persons, firm, company or corporation, who shall be or become public warehousemen under this act shall be subject to the supervision, control, direction, penalties and other provisions prescribed by this act.

§ 9. WHAT STORAGE RECEIPT SHALL EXPRESS.] Any storage receipt issued within the boundaries of this State, shall provide by express agreement that at the option of the 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.

§ 10. WHAT RECEIPT TO EXPRESS IN CASE OF STORAGE OF INFERIOR GRAIN.] When a storage receipt is issued for any kind of

grain, the quality of which falls below the highest standard, then such storage receipts shall not only express and determine the grade, but shall likewise expressly state how many cents per bushel below the price for the highest grade such grain shall be bought at when sold; *Provided*, That the warehouseman with whom the grain is stored shall pay the same price per bushel for such stored grain as is by him paid for grain of a like quality upon the market the same day, less his charges, as provided for in this act.

§ 11. WHEN AND HOW STORED GRAIN MAY BE RECEIVED BACK.] When any person or persons holding a storage receipt for any kind of grain shall desire to receive such grain back from the warehouseman, he shall make a tender of payment in full of all reasonable charges allowable under the provisions of this act, and thereupon the warehouseman shall make full delivery without unreasonable delay, and shall receive back the storage receipt or receipts issued for such grain, which shall be marked or stamped "cancelled."

§ 12. BOOKS OF WAREHOUSEMEN TO BE OPEN FOR INSPECTION.] The books, papers and all other written or printed matter kept by or for a public warehouseman in the prosecution of his business (except such as are of a private nature), shall be open for the inspection of the public during reasonable business hours, and shall be accessible to any and all persons who shall make a reasonable demand for examination of the same; *Provided*, That no such books, papers, written or printed matter shall be removed from the office of the warehouseman, except on the order of a court of competent jurisdiction and for judicial proceedings; *Provided, further*, That all books, papers, written or printed matter that are used for the purpose of registering the weight, grade, dockage, price, etc., of any grain and which is the memorandum upon which the purchase, storage, handling shipping, or other transaction is based by the warehouseman in his dealings with any person or persons in the prosecution of his business shall not be deemed private.

§ 13. EXAMINATION OF SCALES, GRAIN TESTERS, ETC., TO BE ALLOWED AT ALL TIMES.] All persons, firms, companies or corporations who are declared to be public warehousemen under the provisions of this act shall permit at any and all times the examination of scales, grain testers and other appliances or tools used to determine the weight, grade or dockage in the prosecution of their business, when such examination is demanded by any person having authority under the laws of this State to supervise, regulate or in any manner control or direct the manner in which a public warehouseman shall conduct his business, or a public warehouse or elevator be conducted.

§ 14. LICENSES, HOW PROCURED.] At the time of filing notice of intention to engage in the business of a public warehouseman, the person or persons, firm, company or corporation shall likewise procure a license for the prosecution of such business, which

license shall be issued by the county auditor of the respective counties, and a fee of one (1) dollar per thousand bushels of elevator capacity shall be collected for the same and turned into the county treasury for the benefit of the general fund.

§ 15. POWER OF RAILROAD COMMISSIONERS.] The Commissioners of Railroads of the State of North Dakota are hereby declared to have and possess all needed authority to supervise and take charge of any and all matters provided for in this act except as hereinafter specially provided for.

§ 16. MAY CORRECT ABUSES—MANDATORY POWER.] Section 15 of this act shall not be construed to give authority to the Commissioners of Railroads to take charge of and conduct any elevator or warehouse in the capacity of warehousemen, but shall be construed to give authority to correct abuses, direct the putting in of new scales, testers or other tools or appliances which are used for the purpose of weighing, grading or docking grain where those already provided and in use shall be found defective or unsafe. And, further, Section 15 shall be construed to give the Commissioners of Railroads mandatory power to carry out the provisions of this act.

§ 17. STATE'S ATTORNEYS TO PROSECUTE.] The state's attorney of each county shall prosecute all violations of this act, and such prosecution shall run in the name of the State of North Dakota, except such violations as are wholly of a civil character.

§ 18. RIGHT OF PERSONS TO SHIP THEIR OWN GRAIN RESERVED.] Nothing in this act shall be construed to prevent any person or persons from shipping their own grain, or any other grain that may be purchased by them independently of any elevator or warehouse or other building kept for that purpose without having first procured a license and filed a bond as provided in this act.

§ 19. POOLING ON PRICES OF WAREHOUSEMEN PROHIBITED.] Pooling on prices or the amount of grain to be purchased by each warehouseman at any point or points, or the pooling of profits or losses, or pooling in any other manner which shall interfere with the free and unrestricted trade and traffic in any and all kinds of grain is hereby prohibited.

§ 20. PENALTY FOR VIOLATION OF THIS ACT.] Any person or persons, firm, company or corporation who shall knowingly violate any of the provisions of this act or who shall aid or assist in such violations shall be fined in a sum of not less than fifty (50) dollars nor more than \$1,000; *Provided*, That when the amount of damages caused by such violation can be ascertained to a certainty such fine shall be double the amount of such damage, to a sum not exceeding \$1,000; *Provided, further*, That any fine which shall be assessed under this act shall constitute a lien against the elevator or warehouse, and any or all grain or property belonging to the warehouseman and used in the prosecution of his business, until such fine shall have been fully paid.

§ 21. WHO MAY MAKE COMPLAINT.] Any person may make

complaint against any person or persons, firm, company or corporation operating under this act, and may maintain in action the same; but if the court shall certify in his own handwriting after hearing the action that the prosecution was malicious, then the costs shall be taxed to and payable by the plaintiff in a civil case and by the complaining witness in an action of a criminal character.

§ 22. MAXIMUM RATES FOR WAREHOUSING—RESPONSIBILITY OF WAREHOUSEMEN.] No public elevator or warehouse shall charge more than two (2) cents per bushel for receiving, elevating, insuring, delivering and thirty days' storage, and for storing and insuring for each additional thirty days or part thereof not to exceed one-half ( $\frac{1}{2}$ ) cent per bushel. All persons, firms or corporations operating elevators or warehouses shall be responsible to any owner of grain held by them for any and all damage thereto caused by their negligence or want of proper care.

§ 23. GRAIN IN STORE, HOW TAXED.] Grain stored in any public warehouse and remaining in store at the time the same becomes taxable, shall be taxed to the owner thereof, and every person, persons, company or corporation having the same in store shall make a proper exhibit of such grain, specifying the amount each person holds, the name, and if possible, the place of residence of such person, and the amount, kind and quality of such grain, which exhibit shall be used by the assessor of place or locality for the purposes of assessment.

§ 24. FEES OF REGISTER OF DEEDS.] The fees of the register of deeds for filing notice of intention as provided in this act shall be twenty-five (25) cents; for approving, acknowledging and filing bond the sum of one (1) dollar.

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

Approved March 8, 1890.

## CHAPTER 188.

[H. F. 265.]

### PRESCRIBING THE DUTIES OF WAREHOUSEMEN AND ESTABLISHING "NORTH DAKOTA GRADES."

AN ACT to Regulate Warehouses, Inspection, Weighing and Handling of Grain.

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

§ 1. PUBLIC WAREHOUSES UNDER THIS ACT.] All elevators or warehouses located or to be located at Grand Forks, Fargo, Wahpeton and Fairmount, in this State, in which grain is stored in bulk, and in which the grain of different owners is mixed together, or in

which grain is stored in such a manner that the identity of different lots or parcels cannot be accurately preserved, and doing business for a compensation, are hereby declared to be public warehouses.

§ 2. LICENSE, HOW PROCURED, WHAT TO CONTAIN—WHEN LICENSE REVOKABLE.] The proprietor, lessee or manager of any public warehouse shall be required before transacting any business to procure from the Commissioners of Railroads a license permitting such proprietor, lessee or manager to transact business as a public warehouseman under the laws of this State, which license shall be issued by the Commissioners of Railroads upon written application, which shall set forth the location and name of such warehouse, and the individual name of each person interested as owner or principal in the management of the same; if the warehouse be owned or managed by a corporation, the name of the president, secretary and treasurer of such corporation shall be stated, and the said license shall give authority to carry on and conduct the business of public warehouse, in accordance with the laws of the State, and shall be revocable by said Commissioners upon a summary proceeding before the Commissioners, upon complaint of any person in writing, setting forth the particular violation of law, and upon satisfactory proof to be taken in such manner as may be directed by the Commissioners.

§ 3. BOND.] The person receiving a license as herein provided shall file with the commissioners granting the same, a bond to the State of North Dakota with good and sufficient sureties to be approved by said commissioners, in the penal sum of not less than \$10,000 nor more than \$50,000, in the discretion of the Commissioners of Railroads for each warehouse licensed in the county, conditional for the faithful performance of his duty as a public warehouseman and his full and unreserved compliance with all laws of this State in relation thereto; a fee for the issuance of each license of two (2) dollars shall be paid by the person applying for the same; *Provided*, That when any person or corporation procures a license for more than one warehouse in any one county in the State, no more than one bond need be given.

§ 4. PENALTY FOR FAILURE TO PROCURE LICENSE.] Any person who shall transact the business of a public warehouseman without first procuring a license as herein provided, or who shall continue to transact any such business after such license has been revoked (save only that he may be permitted to deliver property previously stored in such warehouse), shall on conviction by indictment be fined in a sum not less than one hundred (100) dollars, nor more than five hundred (500) dollars, for each and every day such business is carried on, and the Commissioners of Railroads may refuse to renew any license or grant a new one to any of the persons whose license has been revoked within one year from the time the same was revoked.

§ 5. DUTY OF WAREHOUSEMAN—DISCRIMINATION PROHIBITED—

INSPECTION AND GRADING.] It shall be the duty of every public warehouseman to receive for storage any grain, dry and in a suitable condition for warehousing, that may be tendered to him in the usual manner in which such warehouses are accustomed to receive the same in the ordinary and usual course of business, not making any discrimination between persons desiring to avail themselves of warehouse facilities. Such grain in all cases to be inspected and graded by a duly authorized inspector, and to be stored with grain of a similar grade. And in no case shall grain of a different grade be mixed together while in store, but if the owner or consignee so requests and the warehouseman consents thereto, his grain of the same grade may be kept in a bin by itself, apart from that of other owners, which bin shall thereupon be marked and known as a special bin. If a warehouse receipt be issued for grain so kept separate, it shall state on its face that it is in a special bin, and shall state the number of such bin and all grain delivered by a duly authorized inspector of grain. Nothing in this section shall be construed so as to require the receipt of any kind of grain into any warehouse in which there is not sufficient room to accommodate or store it properly, or in cases where such warehouse is necessarily closed. The charges for inspection, upon receipt and delivery shall be paid by the warehouseman and may be added to the charge of the storage. The chief inspector may recover such charges of the warehouseman by an appropriate action in his name.

§ 6. WAREHOUSE RECEIPT, WHAT TO CONTAIN.] Upon application of the owner or consignee of grain stored in a public warehouse, the same being accompanied with evidence that all transportation or other charges, which may be a lien upon the grain, including charges for inspection and weighing have been paid, the warehouseman shall issue to the person entitled to receive it a warehouse receipt therefor, subject to the order of the owner or consignee, which receipt shall bare date corresponding with the receipt of the grain in store, and shall state upon its face the quantity and inspected grade of the grain, and that the grain mentioned on it, has been received into store to be stored with grain of the same grade by inspection, and that it is deliverable upon the return of the receipt properly endorsed by the person to whose order it was issued and the payment of proper charges for storage. All warehouse receipts for grain issued by the same warehouse shall be consecutively numbered, and no two receipts bearing the same number shall be issued from the same warehouse during any one year, except in case of a lost or destroyed receipt, in which case the new receipt shall bear the same date and number as the original, and shall be plainly marked on its face "duplicate." If the grain was received from railroad cars, the number of each car shall be stated upon the receipt with the amount it contained, if from barges or other vessels, the name of

such craft, if from team or by other means, the manner of its receipt shall be stated on its face.

§ 7. GOVERNING ISSUANCE OF RECEIPTS.] Upon the delivery of grain from store upon any receipt, such receipt shall be plainly marked across its face the word "cancelled," with the name of the person cancelling the same, and shall thereafter be void, and shall not again be put in circulation, nor shall grain be delivered twice upon the same receipt. No warehouse receipt shall be issued, except upon actual delivery of grain into store in the warehouse from which it purports to be issued and which is to be represented by the receipts. Nor shall any receipt be issued for a greater quantity of grain than was contained in the lot or parcel stated to have been received. Nor shall more than one receipt be issued for the same lot of grain, except in cases where receipt for a part of a lot is desired, and then the aggregate receipt for a particular lot shall cover that lot and no more. In cases where a part of the grain represented by the receipt is delivered out of store, and the remainder is left, a new receipt may be issued for such remainder, but the new receipt shall bear the same date as the original, and shall state on the face that it is balance or receipt of the original number, and the receipt upon which a part has been delivered, shall be cancelled in the same manner as if it had all been delivered. In case it be desirable to divide one receipt into two or more, or in case it be desirable to consolidate two or more receipts into one, and the warehouseman consents thereto, the original receipt shall be cancelled the same as if the grain had been delivered from the store, and the new receipts shall express on their face that they are a part of another receipt or a consolidation of other receipts, as the case may be, and the numbers of the original receipts shall also appear upon the new ones, issued as explanatory of the change, but no consolidation of receipts of dates differing more than ten days shall be permitted. And all new receipts issued for old ones cancelled as herein provided, shall bear the same date as those originally issued as near as may be.

§ 8. MODIFICATION OF LIABILITIES OF WAREHOUSEMEN NOT TO BE STATED IN RECEIPT.] No warehouseman in the State shall insert in any receipt issued by him any language in anywise limiting or modifying his liabilities or responsibility as imposed by the laws of this State.

§ 9. DUTY OF WAREHOUSEMAN ON RETURN OF RECEIPT.] On the return of any warehouse receipt by him, properly endorsed and the tender of all proper charges upon the property represented by it, such property shall be immediately delivered to the holder of such receipt, and it shall not be subject to any further charges for storage after demand for such delivery shall have been made, and the property represented by such receipt shall be delivered within twenty-four hours after such demand shall have been made, and the cars or vessels for the same shall have been furnished. The warehouseman in default shall be liable to the owner of such



receipt for damages for such default in the sum of one (1) cent per bushel, and in addition thereto one (1) cent per bushel for each and every day of such neglect or refusal to deliver; *Provided*, No warehouseman shall be held to be in default in delivering if the property is delivered in the order demanded, and as rapidly as due diligence, care and prudence will justify.

§ 10. STATEMENT OF CONDITIONS, ETC., TO BE FURNISHED TO RAILROAD COMMISSIONERS.] It shall be the duty of every owner, lessee and manager of every public warehouse in this State to furnish in writing, under oath, at such times as the Commissioners of Railroads shall require and prescribe, a statement concerning the condition and management of the business as such warehouseman.

§ 11. STATEMENT OF GRAIN IN STORE TO BE POSTED WEEKLY—STATEMENT TO WAREHOUSE REGISTRAR, WHAT TO CONTAIN.] The warehouseman of every public warehouse located at Grand Forks, Fargo, Wahpeton and Fairmount shall, on or before Tuesday morning of each week, cause to be made out, and shall keep posted up in the business office of his warehouse, in a conspicuous place, a statement of the amount of each kind and grade of grain in store in his warehouse at the close of business on the previous Saturday, and shall also on each Tuesday morning render a similar statement made under oath before some officer authorized by law to administer oaths, by one of the principal owners or operators thereof, or by the bookkeeper thereof having personal knowledge of the facts, to the warehouse registrar appointed as hereinafter provided. They shall also be required to furnish daily to the said registrar a correct statement of the amount of each kind and grade of grain received in store in such warehouse on the previous day, also the amount of each kind and grade of grain delivered or shipped by such warehouseman during the previous day, and what warehouse receipts have been cancelled, upon which the grain has been delivered on such day, giving the number of each receipt and amount, kind and grade of grain received and shipped upon each, also how much grain, if any, was so delivered or shipped, and the kind and grade of it, for which warehouse receipts had not been issued, and when and how such unreceipted grain was received by them, the aggregate of such reported cancellations and delivery of unreceipted grain corresponding in amount, kind and grade with the amount so reported delivered or shipped. They shall also at the same time report what receipts if any, have been cancelled and new ones issued in their stead as herein provided for, and the warehouseman making such statements shall in addition furnish the said registrar any further information regarding receipts issued or cancelled, that may be necessary to enable him to keep a full and correct record of all receipts issued and cancelled, and of grain received and delivered.

§ 12. SECRETARY OF COMMISSIONERS OF RAILROADS TO ACT AS REGISTRAR.] It is hereby made the duty of the secretary of the

Commissioners of Railroads to act as registrar in accordance with the spirit and intent of Section 11 of this act.

§ 13. SCHEDULE OF RATES TO BE PUBLISHED ANNUALLY—MAXIMUM RATES.] Every warehouseman of public warehouses located at Grand Forks, Fargo, Wahpeton and Fairmount shall be required during the first week in September of each year to publish in one or more of the newspapers (daily if there be such) published in the city or village in which such warehouse is situated, a table or schedule of rates for the storage of grain in his warehouse during the ensuing year, which rates shall not be increased during the year, and such published rates or any published reduction of them shall apply to all grain received into such warehouse from any person or source, and no discrimination as to rates shall be made directly or indirectly by such warehouseman for the storage of grain. The maximum charge for storage, insuring and handling of grain, including the cost of receiving and delivering shall be for the first fifteen days or part thereof, one and one-half ( $1\frac{1}{2}$ ) cents per bushel, and for each fifteen days or part thereof, after the first fifteen days, one-half ( $\frac{1}{2}$ ) cent per bushel, and for continuous storage between the fifteenth day of November, and the fifteenth day of May following, not more than four (4) cents per bushel.

§ 14. MIXING GRADES UNLAWFUL.] It shall not be lawful for any public warehouseman to mix any grain of different grades together or to select different qualities of the same grade for the purpose of storing or delivering the same, nor shall he attempt to deliver grain of one grade for another, or in any way tamper with grain while in his possession or custody, with a view of securing any profit to himself or any other person, and in no case, even of grain stored in a separate bin, shall he be permitted to mix grain of different grades together while in store. He may, however, on request of the owner of any grain stored in a private bin, be permitted to dry, clean, or otherwise improve the condition or value of any such lot of grain; but in such case it shall only be delivered as such separate lot, or as the grade it was originally inspected when received by him, without reference to the grade it may be as improved by such process of drying or cleaning. Nothing in this section, however, shall prevent any warehouseman from moving grain within his warehouse for its preservation or safe keeping.

§ 15. WAREHOUSES, SCALES, ETC., ALWAYS OPEN TO INSPECTION AND TEST.] All persons owning property, or who may be interested in the same in any public warehouse, and all duly authorized inspectors of such property shall at all times, during ordinary business hours, be at full liberty to examine any and all property stored in any public warehouse in this State, and all proper facilities shall be extended to such person by the warehouseman, his agents and servants for an examination, and all parts of the public warehouses shall be free for the inspection and examination of any

person interested in property stored therein, or of any authorized inspector of such property. And all scales used for the weighing of property in public warehouses shall be subject to examination and test by any duly authorized inspector, weighmaster, or scaler of weights and measures, at any time when required by any person or persons, agent or agents whose property has been or is to be weighed on such scales. The expense of such test by an inspector or scaler to be paid by the warehouse proprietor if the scales are found incorrect, but not otherwise. Any warehouseman who may be guilty of continuing to use scales found to be in an imperfect or incorrect condition by such examination and test until the same shall have been pronounced correct and properly sealed, shall be liable to be proceeded against as hereinbefore provided.

§ 16. STATE WEIGHMASTER AND ASSISTANTS, HOW APPOINTED.] The Commissioners of Railroads shall appoint in all cities where there is a State inspection of grain a State Weighmaster and such assistants as shall be necessary.

§ 17. DUTIES OF.] Said State Weighmaster and assistants shall, at the places aforesaid, supervise and have exclusive control of the weighing of grain and other property which may be subject to inspection; and the inspection of scales and the action and certificate of such Weighmaster and assistants in the discharge of their aforesaid duties shall be conclusive upon all parties in interest.

§ 18. FEES FOR WEIGHING, HOW PAID.] The Commissioners of Railroads shall fix the fees to be paid for the weighing of grain or other property, which fees shall be paid by the warehouseman and may be added to the charges for storage.

§ 19. QUALIFICATION OF WEIGHMASTERS—BOND.] Said State Weighmaster and assistants shall not be a member of any board of trade or association of any like character; they shall give bonds in the sum of \$5,000, conditioned for the faithful discharge of their duties, and shall receive such compensation as the Commissioners of Railroads shall determine.

§ 20. RULES AND REGULATIONS.] The Commissioners of Railroads shall adopt such rules and regulations for the weighing of grain and other property as they shall deem proper.

§ 21. PENALTY FOR OBSTRUCTING WEIGHMASTER IN PERFORMANCE OF HIS DUTY.] In case any person, warehouse or railroad corporation or any of their agents or employes shall refuse or prevent the aforesaid State Weighmaster or either of his assistants from having access to their scales in the regular performance of their duties in supervising the weighing of any grain or other property in accordance with the tenor and meaning of this act, they shall forfeit the sum of one hundred (100) dollars for each offense, to be recovered in an action of debt before any justice of the peace, in the name of the State of North Dakota, such penalty or forfeiture to be paid to the State Treasurer for the benefit of the grain

inspection fund, and shall also be required to pay all costs of prosecution.

§ 22 CHIEF INSPECTOR OF GRAIN, HOW APPOINTED—BOND.] It shall be the duty of the Commissioners of Railroads to appoint a suitable person as chief inspector of grain in the State of North Dakota who shall hold his office for the term of two years, unless sooner removed by said Commissioners of Railroads, who shall, before entering upon the duties of his office take an oath of office, as in case of other State officers, and shall execute a bond to the State of North Dakota, in the penal sum of \$10,000, with good and sufficient sureties, to be approved by the Commissioners of Railroads, conditioned that he will faithfully and impartially discharge the duties of the office of chief inspector according to law and the rules and regulations of said Commissioners of Railroads and that he will pay all damages to any person or persons who may be injured by reason of his neglect or failure to comply with the law or the rules and regulations aforesaid.

§ 23. DEPUTY INSPECTORS.] Said chief inspector shall appoint, subject to the approval of the Commissioners of Railroads, such number of deputy inspectors as may be required. One of which deputies in each of the cities of Grand Forks, Fargo, Wahpeton and Fairmount shall be denominated and styled chief deputy.

§ 24. OATH AND BOND OF DEPUTIES.] Such deputy inspector shall take a like oath of office to that required from the chief inspector, and shall give a bond to the State of North Dakota, in the penal sum of \$5,000, with such good and sufficient securities as may be approved by the Commissioners of Railroads and conditioned in like manner as the Commissioners of Railroads require from the chief inspector.

§ 25. BONDS, WHERE FILED—SUIT ON SAME, HOW BROUGHT.] The bonds given by the chief inspector and the deputy inspectors shall be filed in the office of the Secretary of State for the State of North Dakota and suit may be brought upon said bond or bonds in any court having jurisdiction thereof, for the use of the person or persons so injured.

§ 26. CHIEF INSPECTOR MAY REMOVE DEPUTIES AT PLEASURE.] The chief inspector shall have power to remove any of the deputy inspectors at pleasure, and said deputy inspectors shall act under the immediate control and supervision of said chief inspector.

§ 27. INSPECTORS TO BE GOVERNED BY RULES PRESCRIBED BY COMMISSIONERS OF RAILROADS—COMPENSATION, HOW FIXED.] The chief inspector of grain and all deputy inspectors shall be governed in their inspection duties by such rules and regulations as may be provided by the Commissioners of Railroads, and the said commissioners shall have power to fix the rate of charges for inspection of grain, and the manner in which the same shall be collected, and which

charges shall be regulated in such manner as will in the judgment of said commissioners produce sufficient revenue to meet the necessary expenses of the inspection service, and no more. Said Commissioners of Railroads shall fix the amount of compensation to be paid to the chief inspector and deputy inspectors, and prescribe the time and manner of payment thereof; which compensation shall be paid out of the grain inspection fund, hereinafter created, on the order of the Commissioners of Railroads.

§ 28. QUALIFICATION OF INSPECTORS.] No chief inspector or deputy inspector of grain shall, during his term of service, be interested, directly or indirectly, in the handling, storing, shipping, purchasing or selling of grain, nor shall he be in the employment of any person or corporation interested in the handling, storing, shipping, purchasing, or selling of grain.

§ 29. WHEN INSPECTORS MAY BE REMOVED.] Upon complaint in writing of any person to the Commissioners of Railroads, supported by reasonable and satisfactory proof, that the chief inspector or any of his deputies have violated any of the rules prescribed for his government, or has been guilty of any improper official act, or has been found inefficient or incompetent for the duties of his position, said person shall be by said Commissioners of Railroads immediately removed from office.

§ 30. IMPOSTORS, HOW PUNISHED.] Any person who shall assume to act as an inspector of grain, who has not first been so appointed and sworn, shall be held to be an impostor, and shall be punished by a fine of not less than fifty (50) dollars, nor more than one hundred (100) dollars, for each and every attempt to so inspect grain, to be recovered before a justice of the peace in an action of debt in the name of the State of North Dakota for the use of any person choosing to sue.

§ 31. PENALTY FOR NEGLECT OF DUTY BY INSPECTORS.] Any duly authorized inspector or deputy inspector of grain, who shall be guilty of any neglect of duty, or who shall knowingly or carelessly inspect or grade any grain improperly, or who shall accept any money, or other consideration, directly or indirectly, for any neglect of duty or any improper performance of duty as such inspector of grain, or any person who shall improperly influence any inspector of grain in the performance of his duty as such inspector shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined not less than one hundred (100) dollars nor more than \$1,000, or shall be imprisoned in the county jail not less than thirty days nor more than one year, or both, in the discretion of the court.

§ 32. INSPECTION CHARGES TO CONSTITUTE A LIEN ON GRAIN.] The charge for the inspection and weighing of grain shall be and constitute a lien on grain so inspected, and whenever such grain is in transit the said charges shall be treated as advance charges, to be paid by the common carrier in whose possession the same is at the time of inspection.

§ 33. DECISION OF INSPECTOR FINAL, EXCEPT WHEN.] The decision of the Chief Inspector or any of the deputy inspectors as to the grade of grain shall be final and binding on all parties, unless an appeal is taken from such decision as hereinafter provided.

§ 34. AGGRIEVED PARTIES MAY APPEAL TO COMMISSIONERS OF RAILROADS, WHOSE DECISION IS FINAL.] In case any owner, consignee or shipper of grain, or any warehouse manager shall be aggrieved by the decision of the Chief Inspector or any of his deputies, an appeal may be had to the Commissioners of Railroads, and a decision of a majority of such Commissioners shall be final, and the Commissioners of Railroads are authorized to make all necessary rules governing such appeal; *Provided*, That the party appealing shall pay to the Chief Inspector a sum not to exceed five (5) dollars per case before said case be entertained, which sum shall be refunded in case such case is sustained.

§ 35. IN CASE OF DISSATISFACTION, HOW PARTY OWNING GRAIN SHALL PROCEED—DUTY OF WAREHOUSEMAN AND RAILROAD COMPANY IN RELATION THERETO.] In case any owner or consignee of grain shall be dissatisfied with the inspection of any lot of grain, or shall from any cause desire to receive his property without its passing into store, he shall be at liberty to have the same withheld from going into any public warehouse (whether the property may have been consigned to such warehouse or not) by giving notice to the person or corporation in whose possession it may be at the time of giving such notice; and such grain shall be withheld from going into store, and be delivered to him, subject only to such proper charges as may be a lien upon it prior to such notice—the grain in railroad cars to be removed therefrom by such owner or consignee within twenty-four hours after such notice has been given to the railroad company having it in possession; *Provided*, Such railroad company placing the same in a proper and convenient place for unloading; and any person or corporation refusing to allow such owner or consignee to receive his grain shall be deemed guilty of conversion, and shall be liable to pay such owner or consignee double the value of the property so converted. Notice that such grain is not to be delivered into store may also be given to the owner or manager of any warehouse into which it would otherwise have been delivered, and if, after such notice, it be taken into store in such warehouse, the proprietor or manager of such warehouse shall be liable to the owner of such grain for double its market value.

§ 36. WHAT COMBINATIONS UNLAWFUL.] It shall be unlawful for any proprietor, lessee or manager of any public warehouse to enter into any contract, agreement, understanding or combination with any railroad company or other corporation, or with any individual or individuals, by which the property of any person is to be delivered to any public warehouse for storage or for any pur-

pose, contrary to the direction of the owner, his agent or consignee.

§ 37. "NORTH DAKOTA GRADES," WHEN ESTABLISHED.] The Commissioners of Railroads shall before the 15th day of September in each year establish a grade for all kinds of grain bought or handled by any public warehouse in the State, which shall be known as "North Dakota" grades, and the grades so established shall be published in some daily newspaper, in each of the three places of Grand Forks, Fargo and Wahpeton, each day, for the space of one week.

§ 38. STANDARD SAMPLES TO BE FURNISHED WHEN REQUESTED BY WAREHOUSEMEN.] It shall be the duty of the chief inspector of grain to furnish any elevator or warehouse in this State standard samples of grain as established by the official inspection, when requested so to do by the proprietor, lessee or manager thereof, at the actual cost of such sample.

§ 39. DUTIES OF COMMISSIONERS OF RAILROADS.] It will be the duty of the Commissioners of Railroads to assume and exercise a constant supervision over the grain interests of this State, to supervise the handling, inspection, weighing and storage of grain, to establish all necessary rules and regulations for the weighing, grading, inspection and appeal on inspection 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 of this State in regard to the same, to investigate all complaints of fraud or oppression in the grain trade, and to correct the same as far as it may be in their power.

§ 40. RULES AND REGULATIONS TO BE PUBLISHED—WHEN IN FORCE AND EFFECT.] The aforesaid rules and regulations not being contrary to the provisions of law, shall be published by said Commissioners of Railroads in a daily paper in Grand Forks, Fargo, Wahpeton and Fairmount, and shall be in force and effect until they shall be changed or abrogated by said commissioners in a like public manner.

§ 41. WHAT MONIES TO BE PAID IN STATE TREASURY.] All monies collected by State Grain Inspectors, Weighmasters and other officers, as herein provided for, shall by them be paid into the State Treasury.

§ 42. TREASURER TO KEEP IN SEPARATE ACCOUNT.] It shall be the duty of the Treasurer of the State of North Dakota to receive all monies aforesaid, and all fines and penalties collected by virtue of this act, and to keep a separate account of the same, and to pay the same on the order of the Commissioners of Railroads and not otherwise.

§ 43. DUTY OF ATTORNEY GENERAL—WHEN COUNTY ATTORNEY TO PROSECUTE.] The Attorney General of the State of North Dakota shall be *ex-officio* attorney for the Commissioners of Railroads, 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 Commissioners of Railroads may deem expedient and proper to institute, and he shall render to such Commissioners of Railroads all counsel, advice and assistance necessary to carry out the provisions of this act, according to the true intent and meaning thereof. In all criminal prosecutions against a warehouseman for the violation of any of the provisions of this act, it shall be the duty of the county attorney of the county in which such prosecution is brought, to prosecute the same to a final issue.

§ 44. MAY SELL BY SAMPLE.] Nothing in this act shall be so construed as to prevent any person from selling grain by sample regardless of grade.

§ 46. REPEAL.] All acts and parts of acts, general or special, conflicting with this act are hereby repealed.

§ 47. APPROPRIATION.] The sum of five hundred (500) dollars, or as much thereof as is necessary to carry out the provisions of this act, is hereby appropriated out of any money in the State Treasury not otherwise appropriated.

§ 48. GRAIN IN STORE AND INSPECTION THEREOF AT TIME OF TAKING EFFECT OF THIS ACT NOT AFFECTED HEREBY.] But the provisions of this act shall not charge the liabilities of warehousemen on grain now in store, nor the inspection thereof; but said inspection shall be had under the same system which it was received into store.

§ 49. WHEN ACT TO TAKE EFFECT.] This act shall take effect and be in force after the expiration of sixty days after its passage.

Approved March 31, 1890.

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## CHAPTER 189.

[H. F. 175.]

### PROVIDING FOR ERECTION OF GRAIN WAREHOUSES ON RAILROAD RIGHT OF WAY.

AN ACT Providing for the Erection of Public Grain Warehouses and Elevators, on the Right of Way of Railroad Corporations and Contiguous Thereto, and Prescribing Condemnation Proceedings in Connection Therewith.

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

§ 1. APPLICATION TO CONSTRUCT WAREHOUSE ON RAILROAD RIGHT OF WAY—DUTY OF RAILROAD COMPANY.] Any two or more persons, corporation or association, who have or shall, by articles of agreement in writing, associate themselves together under



any name assumed by them, for the purpose of operating a warehouse or elevator, by and for the purchase, storage and shipping of wheat or other grain within this State, may make an application in writing to any railroad company or corporation organized under the laws of this State, or doing business therein, to be permitted to construct, to maintain and operate a warehouse or elevator at any of its regular way stations upon its right of way, to be used for the purpose aforesaid, and the railroad company or corporation so applied to shall grant such application, without regard to the capacity of such elevator or warehouse and without discrimination as to persons, and in the order in which such applications shall be presented.

§ 2. SUCH WAREHOUSES DECLARED TO BE PUBLIC WAREHOUSES—HOW RENTAL OF WAREHOUSE SITE TO BE DETERMINED.] All elevators or warehouses erected under the provisions of this act shall be kept open for the transaction of business during such portion of the year as may be required by the statutes of the State, or the Board of Railroad Commissioners. The associations or corporations which shall avail themselves of the benefits or privileges of this section are declared to be public corporations, subject to legislative supervision and control at all times and in all particulars in which rights or powers are conferred upon them by this act. Before the application hereinbefore mentioned need be granted by any railroad company or corporation, the association making the same shall pay or secure to such railroad company or corporation such compensation for the right, privilege or franchise demanded in such petition as may be agreed upon between the parties as a just and reasonable yearly rental therefor, or a fixed or certain amount to be paid in one sum in lieu of a rental to be paid annually for the use and occupation of the site occupied by such warehouse or elevator and the uses and privileges connected therewith. If the parties fail to agree upon such yearly rental, or upon a lump sum to be paid in lieu thereof, the same may be determined and assessed upon petition to the district court for the district in which the station, at which the warehouse or elevator is located, may be situated pursuant to the provisions of the statute for the condemnation of private property for public uses. All notices to be served upon the railroad company or corporation in the initiation or of such condemnation proceeding or during the progress thereof may be served in manner provided by the laws of this State for the service upon such corporations of summons in an action in the district court; *Provided*, That either party shall have the right to appeal from the decisions of the commissioners to the district court for the district aforesaid within twenty days from the filing of the same and service of notice of the filing of such decision; and such appeal shall be taken, and heard and determined in like manner as appeals from the reports of the commissioners for condemning lands for the use of railroad corporations, as far as the

same may be applicable; *Provided, further,* That in case of condemnation proceedings the commissioners shall find, determine and return both the rental to be paid annually and a lump sum in lieu thereof. If the association making the application shall prefer to pay the annual rental so found by the commissioners or by the jury on appeal, in lieu of the lump sum found by them as aforesaid, the same shall be paid annually in advance, and in default thereof the warehouse or elevator shall not be erected, or if erected shall be moved in thirty days after notice from the railroad company or corporation, and in default to so remove the same it shall be forfeited to said company or corporation.

§ 3. DUTY OF RAILROAD COMPANIES TO PROVIDE SUITABLE SIDETRACKS, ETC.] Every railroad company or corporation organized under the laws of this State, or doing business therein, shall upon application in writing, provide reasonable sidetrack facilities and running connections between its main track and elevators and warehouses upon or contiguous to its right of way at such stations; and every such railroad corporation shall permit connections to be made and maintained in a reasonable manner with its sidetracks to and from any warehouse or elevator, without reference to its size, cost or capacity, where grain is or may be stored; *Provided,* That this shall not be so construed as to require any railroad company to construct or furnish any sidetracks off its own land or right of way; *Provided, further, however,* That such elevators and warehouses shall not be constructed within one hundred feet of any existing structure and shall be at safe fire distance from the station buildings and so as not to essentially conflict with the safe and convenient operation of the road; and that where stations are ten miles or more apart the railroad company when required to do so by the Railroad Commissioners, shall construct and maintain a sidetrack for the use of shippers between such stations.

§ 4. INDIVIDUALS GUARANTEED SAME RIGHTS AND PRIVILEGES AS CORPORATIONS.] Individual persons shall have the same rights and privileges under the provisions of this act as associated persons, corporations and associations.

§ 5. EMERGENCY.] Whereas, an emergency exists by reason of the fact that it is necessary that this act shall take effect immediately; therefore, it shall take effect and be in force from and after its passage and approval by the Governor.

Approved March 3, 1890.

## CHAPTER 190.

[H. F. 136.]

## DEFINING PUBLIC WAREHOUSES.

AN ACT to Amend Section 4, Chapter 130, Laws of 1887 of the Political Code, Entitled, "Grain Warehouses," Defining the Term of "Public Warehouses," and Requiring Additional Duties.

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

§ 1. PUBLIC WAREHOUSES.] That Section 4, Chapter 130, Laws of 1887 of the Political Code, entitled "Grain Warehouses," be amended so as to read as follows:

"All elevators or warehouses in this State, erected and operated for the purpose of buying, selling, or storing or handling grain for profit, are hereby declared "public warehouses," and none of the provisions of this act shall be construed so as to permit discrimination with reference to the buying, receiving or handling of grain of standard grades, or in regard to parties offering such grain for sale, storage or handling at such public warehouses while same are in operation."

Approved February 13, 1890.

## MISCELLANEOUS.

## CHAPTER 191.

[H. F. 115.]

## CEDING JURISDICTION OVER CERTAIN LANDS TO THE UNITED STATES.

AN ACT to Cede Jurisdiction to the United States Over Certain Lands, and for the Purchase and Condemnation Thereof.

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

§ 1. MAY PURCHASE OR CONDEMN.] The United States shall have power to purchase or to condemn in the manner prescribed by law, upon making just compensation therefor, any land in this

State required for custom houses, arsenals, national cemeteries or for other purposes of the government of the United States.

§ 2. JURISDICTION CEDED.] The jurisdiction of the State of North Dakota in and over the land mentioned in the preceding section when purchased or condemned by the United States, shall be and the same hereby is, ceded to the United States; *Provided*, That the jurisdiction hereby ceded shall continue no longer than the said United States shall own or occupy the said land.

§ 3. CONCURRENT JURISDICTION.] The said consent is given and the said jurisdiction ceded upon the express condition that the State of North Dakota shall retain concurrent jurisdiction with the United States in and over the said land, so far as that all civil process in all cases, and such criminal or other process as may issue under the laws or authority of the State of North Dakota against any person or persons charged with crimes or misdemeanors committed within said State, may be executed therein in the same way and manner as if such consent had not been given, or jurisdiction ceded, except so far as such process may affect the real and personal property of the United States.

§ 4. WHEN JURISDICTION SHALL VEST IN UNITED STATES.] The jurisdiction hereby ceded shall not vest until the United States shall have acquired the title to the said lands by purchase, grant, or condemnation, and so long as the said land shall remain the property of the United States when acquired as aforesaid, and no longer, the same shall be and continue exonerated from all taxes, assessments and other charges which may be levied or imposed under the authority of this State.

Approved March 14, 1890.

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## CHAPTER 192.

[S. F. 91.]

### BOND OF SECRETARY OF STATE.

#### AN ACT Requiring the Secretary of State to Give Bond.

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

§ 1. BOND.] The Secretary of State shall give a bond to the State in the penal sum of \$10,000, which bond shall be approved by the Governor and filed with the State Auditor.

§ 2. EMERGENCY.] There being an emergency existing by reason of there being no law prescribing the bond of the Secretary of State, therefore this act shall take effect and be in force immediately upon its passage and approval.

Approved March 3, 1890.

## CHAPTER 193.

[S. F. 210.]

## DEFINING LIABILITY OF CERTAIN OFFICERS.

AN ACT to Define the Liability of the Officers, Agents and Stockholders of Corporations not Organized Under the Laws of this State, and Wrongfully Doing Business Therein.

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

§ 1. LIABILITY.] That any failure to comply with the provisions of Sections 567, 568 and 569 of the Civil Code of this State, and the acts amendatory thereof, shall render each and every officer, agent and stockholder of any such corporation so failing therein, jointly and severally liable on any and all contracts of such corporation made within this State during the time such corporation is so in default.

Approved March 31, 1890.

## CHAPTER 194.

[H. F. 238.]

## REGULATING WITNESS FEES IN CERTAIN CASES.

AN ACT to Regulate the Paying of Fees to Witnesses When Called in More than One Case by the Same Party.

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

§ 1. FEE OF WITNESS.] That a witness who is subpoenaed in two or more cases, by the same party, shall be entitled to but one single compensation from such party for the same day's attendance or travel.

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

Approved March 31, 1890.

## CHAPTER 195.

[H. F. 109.]

## PREVENTING SALE OF CIGARETTES TO MINORS.

AN ACT Entitled "An Act to Prevent the Sale of Cigarettes or Tobacco to Certain Minor Children."

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

§ 1. PENALTY.] Any person who sells or gives to a minor under the age of sixteen years any cigar or cigarette of any kind or form, except on the written order of a parent or guardian, or tobacco in any form, shall be deemed guilty of a misdemeanor, and shall be punished by imprisonment in a county jail for not more than thirty days or by a fine of not more than fifty (50) dollars or by both such fine and imprisonment.

§ 2. All acts or parts of acts in conflict herewith are hereby repealed.

Approved February 13, 1890.

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## CHAPTER 196.

[H. F. 321.]

## DEFINING THE FISCAL YEAR.

AN ACT Fixing the Time for the Commencement and Ending of the Fiscal Year for the State of North Dakota.

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

§ 1. FISCAL YEAR DEFINED.] The fiscal year for the State of North Dakota shall commence on the first day of November and end on the 31st day of October, and all reports required to be made annually or biennially by any State officer, shall be made to, and include the 31st day of October preceding, and all accounts of said officers shall be closed and balanced to that date.

Approved March 19, 1890.

## CHAPTER 197.

[H. F. 195.]

## LEGALIZING ACTS OF CERTAIN OFFICERS.

AN ACT to Legalize the Acts of Certain Officers Therein Named.

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

§ 1. CERTAIN ACKNOWLEDGEMENTS VALID.] That all acknowledgements and jurats to any conveyances or other instruments heretofore taken by any person previously elected or appointed, under the laws of the Territory of Dakota and then lawfully acting as a notary public, or other officer authorized to take such acknowledgements and jurats, and all other official acts of such duly qualified officers, be and the same are hereby legalized and made valid to the same intent and purposes that they would have been had the State of North Dakota remained a territory.

§ 2. EMERGENCY.] It being necessary for the better protection of the public and business interests of the State that this act should take effect prior to July 1, 1890, this act shall take effect and be in force from and after its passage and approval.

Approved March 14, 1890.

## CHAPTER 198.

[S. F. 189.]

## LEGALIZING CERTAIN INSTRUMENTS.

AN ACT to Legalize Certain Instruments and the Record Thereof.

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

§ 1. CERTAIN ACKNOWLEDGEMENTS WITHOUT SEAL, DECLARED VALID.] All deeds, mortgages, powers of attorney and other instruments affecting the title to real property heretofore executed and recorded without seal affixed by the officer before whom the same is acknowledged, such officer having authority to take acknowledgements of such instruments, the record of any such instrument heretofore recorded are hereby legalized and made

valid and effectual to the same extent and for all purposes as though such official seal had [been] affixed.

§ 2. EMERGENCY.] Whereas, as there is no law legalizing certain instruments and the record thereof, an emergency exists and this act shall be in force from and after its passage and approval.

Approved March 20, 1890.

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## CHAPTER 199.

[S. F. 17.]

### DEPOSITORY FOR STATE TITLES TO REAL ESTATE, ETC.

AN ACT Designating a Place<sup>1</sup> of Deposit for all Abstracts and Conveyances of Title to the State of North Dakota, of Lands now Owned or Hereafter Acquired by the State.

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

§ 1. DEEDS, ETC., TO STATE TO BE DEPOSITED WITH STATE TREASURER.] That all abstracts and conveyances of title to the State of North Dakota of any lands now owned or hereafter acquired by the State, whether the said lands be held for penal, educational, charitable or other institutions or purposes, shall be by those in whose charge said conveyances now are or may come, deposited with and remain [in the] control of the Secretary of State.

§ 2. All acts or parts of acts inconsistent herewith are hereby repealed.

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

Approved January 22, 1890.

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## CHAPTER 200.

[H. F. 57.]

### REPEALING LAW PROHIBITING DESTRUCTION OF BEAVER.

AN ACT Repealing an Act Entitled "An Act to Prohibit the Destruction of Beaver in the Territory of Dakota."

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

§ 1. REPEAL.] That Chapter 60 of the Session Laws of 1887, of the Territory of Dakota, be and the same is hereby repealed.

Approved February 20, 1890.



## CHAPTER 201.

[S. F. 39.]

## ATTACHING CERTAIN TOWNSHIPS TO RAMSEY COUNTY.

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. HOW CERTAIN TOWNSHIPS MAY BE ATTACHED TO RAMSEY COUNTY.] That the district of country known as townships 155, 156, 157 and 158 north of range 60 and 61 west, shall be attached to and become a part of the county of Ramsey; *Provided*, That it shall be submitted to a vote of all the people concerned therein.

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

Approved March 11, 1890.

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# JOINT RESOLUTIONS AND MEMORIALS.

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## NUMBER 1.

A MEMORIAL to Congress Requesting the Passage of the Two Pension Bills Proposed by the G. A. R. National Pension Committee.

*Be it Resolved by the Senate, the House of Representatives Concurring:*

That a copy of the following memorial, signed by the President of the Senate and Speaker of the House of Representatives, and attested by the Secretary of the Senate and by the Chief Clerk of the House of Representatives, be sent to the Honorables Gilbert A. Pierce, Lyman R. Casey and to the Honorable H. C. Hansbrough;

That the Honorables Lyman R. Casey and Gilbert A. Pierce, representing this State in the Senate of the United States, and Honorable H. C. Hansbrough, representing this State in the House of Representatives of the United States, be and they are hereby respectfully requested to present the following Memorial in their respective Houses, and to urge the passage of an act of Congress in accordance with this Memorial, to-wit:

*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 people of the State of North Dakota earnestly desire that all honorably discharged soldiers who served in the army of the United States during the late War of the Rebellion, should receive a pension from the United States for their services. They also desire that those suffering from disability incurred in consequence of such service should be especially remembered without consideration of rank in the service.

That many G. A. R. members now reside within this State, and that the provisions of the bills now proposed by the G. A. R. national pension committee embody the resolutions concerning pensions as adopted unanimously by two consecutive National Encampments of the Grand Army of the Republic.

They therefore respectfully request that your honorable body give said bills your favorable consideration.

## NUMBER 2.

A CONCURRENT RESOLUTION for a Memorial to Congress for the Appropriation of 5 Per Centum of the Amounts of the Sales of Public Lands, Situated within the limits of the State of North Dakota and which were Sold by the United States prior to the Admission of the State of North Dakota into the Union, to be used as a Permanent Fund for the Support of the Common Schools of this State.

*Be it Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring:*

That a copy of the following memorial, signed by the President of the Senate and by the Speaker of the House of Representatives, and attested by the Secretary of the Senate and by the Chief Clerk of the House of Representatives, be sent Honorables Gilbert A. Pierce and Lyman R. Casey and to H. C. Hansbrough;

That Honorables Gilbert A. Pierce and Lyman R. Casey, representing this State in the Senate of the United States, and Honorable H. C. Hansbrough, representing this State in the House of Representatives of the Congress of the United States, be and they are hereby respectfully requested to present the following memorial in their respective houses, and to urge the passage of an act of Congress in accordance with this memorial, to-wit:

*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 people of the State of North Dakota do earnestly desire to establish their Common School System upon a firm and secure foundation, well knowing that a high degree of intelligence is necessary to insure the perpetuity and prosperity of a government of the people, by the people and for the people.

That the valuable and saleable lands within this State had been disposed of under homestead and pre-emption laws, and large tracts had been granted to railroad companies, prior to the admission of this State into the Union; and the net proceeds of the sales of lands within this State by the United States prior to the admission of this State amounted in the aggregate to between ten and twelve millions of dollars, paid into the Treasury of the United States.

Therefore, the people of this State do respectfully petition your honorable body to grant to this State an appropriation equal to 5 per centum of the proceeds of the sales of public lands, lying within this State, which had been sold by the United States prior

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to the admission of this State into the Union; which appropriation shall be used as a permanent fund, the interest of which only shall be expended for the support of the Common Schools within this State.

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N U M B E R 3.

A 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 for an Appropriation for the Purpose of Dredging and Dyking Devils Lake.

*Be it Resolved by the Legislative Assembly of the State of North Dakota:*

The residents of all that territory contiguous to and bordering upon Devils Lake, a navigable body of water fifty-eight miles long, the same being the avenue of reaching the markets for a vast grazing and agricultural district, would respectfully petition your honorable body to appropriate, out of any fund available for the purpose, the sum of \$25,000 for the purpose of dredging and dyking the said Devils Lake and preserving the same as a navigable body of water; all of which is deemed a vital necessity to the people in the territory contiguous to said Devils Lake.

*Resolved,* That the Secretary of State is requested to forward copies of this resolution to each of our Senators and Representatives in Congress, at as early a day as may be expedient.

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 INDEX.
 

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<b>ACADEMY OF SCIENCE</b> —(see <i>State Institutions</i> ) .....	463
<b>ACKNOWLEDGMENTS</b> —	
acts of certain officers legalized .....	547
certain instruments legalized .....	547
<b>AGRICULTURAL COLLEGE</b> —(see <i>State Institutions</i> ) .....	468
<b>AMENDMENTS</b> —	
section 1, chapter 9, laws of 1890 .....	93
section 7, chapter 63, laws of 1885 .....	123
section 2, chapter 42, laws of 1889 .....	135
sections 3 and 8 of chapter 26, laws of 1889 .....	146
section 1, chapter 25, laws of 1881 .....	147
section 16, subchapter 2, chapter 112, laws of 1883 .....	148
sections 171, 172 and 173 of probate code .....	165
section 1, chapter 6, code of 1877 .....	174
section 1, chapter 67, laws of 1887 .....	258
section 16, chapter 69, laws of 1885 .....	259
section 10, chapter 69, laws of 1889 .....	259
sections 2 and 5, chapter 88, laws of 1889 .....	272
sections 1 and 15, article 15, chapter 73, laws of 1887 .....	284
section 1, chapter 16, laws of 1887 .....	286
section 4, chapter 139, laws of 1887 .....	286
articles 4, 9 and 16, chapter 73, laws of 1887 .....	288
sections 1 and 2, chapter 45, laws of 1879, and sections 2 and 3, chapter 17 of the political code .....	290
section 1, general laws of 1885, supplement .....	292
sections 3 and 4, political code .....	295
sections 2 and 4, chapter 58, laws of 1879 .....	330
chapter 113, laws of 1890 .....	331
chapter 48, laws of 1889 .....	375
sections 29 and 70, chapter 133, laws of 1890 .....	415
section 14, chapter 147, laws of 1890 .....	440
section 2, chapter 150, laws of 1890 .....	447
sections 1 and 7, chapter 152, laws of 1890 .....	455
sections 1, 2, 3 and 4, chapter 135, laws of 1885 .....	460
sections 1, 2 and 3, chapter 63, laws of 1881 .....	462
section 13, chapter 158, laws of 1890 .....	467
section 9, chapter 40, laws of 1883 .....	510
section 1, chapter 51, laws of 1889 .....	506
section 4, chapter 130, laws of 1887 .....	543
<b>APPORTIONMENT</b> —	
certain townships attached to third legislative district .....	85
<b>APPROPRIATIONS</b> —	
maintenance insane hospital .....	86
maintenance penitentiary .....	87
maintenance university .....	88
mileage and per diem of legislature .....	89
mileage and per diem of legislature .....	90
salaries of state officers .....	90
furniture and supplies for state officers .....	91

<b>APPROPRIATIONS—Continued.</b>	
clerk hire for state officers.....	92
stationery for legislative assembly.....	9
maintenance of public offices.....	94
militia deficiency.....	95
constitutional convention deficiency.....	96
printing constitution in newspapers.....	97
for copying certain records.....	97
for relief of destitute.....	98
for public printing.....	99
for legislative hand book.....	99
for state board of agriculture.....	118
for expenses of board of university and school lands, land office fees, interest, etc.....	122
of fund realized by sale of refunding bonds.....	132
bounty for manufacture of binding twine.....	138
bounty for manufacture of beet sugar.....	139
bounty for manufacture of potato starch.....	140
for salary of commissioner of agriculture and labor.....	155
for state institute fund.....	211
for armory rent and salary of adjutant general.....	283
for document fund.....	344
for stationers' supplies.....	348
expenses commissioners of railroads.....	364
maintenance deaf and dumb school.....	476
library.....	492
for territorial reports.....	501
for veterinary surgeon.....	523
for grain inspection.....	540
<b>ARBITRATION—</b>	
providing for tribunals of conciliation and arbitration in certain cases.....	101
<b>ASSESSOR—(see <i>Revenue and Taxation.</i>)</b>	
duty of in relation to assessment for school purposes.....	203
make lists of owners of dogs.....	457
gather statistics deaf and dumb.....	474
<b>ATTORNEY GENERAL—</b>	
appropriation for clerk hire.....	92
duties as to school lands.....	434-442
oath and bond.....	104
general duties.....	104
to make annual report to governor.....	105
member of board of university and school lands.....	119
to assist commissioner of insurance in preparation of insurance blanks.....	253
member of joint commission.....	261
duty of as to prohibition.....	309
duty of as to common carriers.....	349-375
member board of equalization.....	394
duties as to lease and sale of school lands.....	434
duties as to veterinary surgeon.....	524
<b>BANKS—</b>	
organization and government of state banks.....	106
associations, how formed.....	106
certificate, what to state.....	107
certificate, filed with secretary of state.....	107
powers.....	107
capital required.....	108
organization certificate to be published.....	108
delinquent stock, how sold.....	109

<b>BANKS—Continued.</b>	
capital stock and liability of shareholder.....	109
increase or decrease of capital stock.....	109
dissolution of association—duties of public examiner.....	110
dividends.....	110
qualification of directors.....	111
capital to remain inviolate—bad debts.....	111
penalty for failure to make reports.....	111
responsibility of shareholders.....	112
certain loans prohibited.....	112
assets and liabilities—reserves.....	112
loans and discounts.....	112
penalty for making false statement.....	113
insolvent bank not to receive deposits—penalty.....	113
when banks must organize.....	113
when franchise forfeitable.....	113
ex-officio superintendent of state banks.....	114
<b>BEAVER—</b>	
repeal of law prohibiting destruction.....	548
<b>BENEVOLENT INSTITUTIONS—</b>	
incorporation of.....	249
articles, what to contain.....	249
liability—duration of corporation—by-laws, etc.....	250
<b>BOARD OF AGRICULTURE—</b>	
how created.....	115
citizens of Grand Fords to convey certain lands.....	115
annual exhibits.....	115
meetings, rules, etc.....	116
secretary.....	116
treasurer.....	117
powers of board.....	117
compensation of officers.....	118
annual reports.....	118
<b>BOARDS OF EDUCATION—</b>	
election of in certain cities.....	238
term of office—date of election.....	238
eligibility of members.....	239
to purchase flags.....	244
<b>BOARD OF EQUALIZATION—</b>	
to levy tax to pay interest on revenue bonds.....	130
to levy tax to pay interest on the funding bonds.....	132
board, how constituted.....	394
duties as to assessment of railroads.....	420
<b>BOARDS OF HEALTH—</b>	
establishment of county boards.....	123
<b>BOARD OF UNIVERSITY AND SCHOOL LANDS—</b>	
how constituted—authority—secretary—meetings, etc.....	119
investment of school funds.....	120
funds—investment, etc.....	121
appropriation for expenses, land office fees, etc.....	122
duties in relation to lease and sale school lands.....	434
<b>BOILER INSPECTION—</b>	
board—how appointed—term of office—eligibility.....	124
duties of board—meetings.....	124
penalty for failure to have steam boiler inspected.....	125
inspection of steam vessels.....	125
manner of testing steam boilers.....	125
licensing engineers.....	127
fees for inspection.....	128

<b>BOND—</b>	
of attorney general.....	104
of deputy state and county officers.....	174
protection of mechanics.....	329
public printer.....	338
secretary of state.....	544
school (see <i>Education</i> ).....	216
<b>BONDS—</b>	
<b>STATE—</b>	
providing for issuing state revenue bonds.....	129
providing for issue of state refunding bonds.....	131
municipal, limit of.....	286
for city improvements.....	288
<b>COUNTY—</b>	
funding of county indebtedness.....	133
limiting issue.....	135
certain bonds invalid.....	137
county issue for seed grain.....	449
SCHOOL—(see <i>page 216</i> .)	
<b>BOUNDARY LINE—</b>	
appointment of commissioner to determine—compensation, etc....	262
<b>BOUNTY—</b>	
for manufacture of binding twine.....	138
for manufacture of beet sugar.....	139
for manufacture of potato starch.....	140
for tree planting.....	245
for killing wolves.....	462
<b>BRANDS AND EARMARKS—</b>	
brands to be filed with secretary of state—record—fees.....	141
brands to be recorded by register of deeds.....	141
similar brands prohibited—what constitutes true brand.....	142
brand prima facie evidence of ownership.....	143
estrays to be noticed to secretary of state.....	143
false register—running brand prohibited.....	143
<b>BRIDGES—</b>	
when county to build—supervision of—repairs, etc.....	144
bridge tax turned over to cities in certain cases.....	145
<b>CHATTEL MORTGAGES—</b>	
county commissioners to designate public places for sale of chat- tels.....	146
disposition of proceeds.....	147
relating to renewal of chattel mortgages.....	147
<b>CIGARETTES AND TOBACCO—</b>	
sale to minors prohibited.....	546
<b>CITY TREASURER—</b>	
duties of in relation to certain school monies.....	237
<b>CIVIL TOWNSHIPS—</b>	
certificates of road work receivable for certain taxes.....	148
tax for irrigation purposes.....	149
relating to townships heretofore illegally organized.....	150
act allowing town supervisors to issue bonds, repealed.....	151
<b>CLERK OF COURT—</b>	
duty in relation to filing certain transcript of judgments.....	266
duty in relation to drawing jurors.....	268
<b>COAL—NATIVE—</b>	
to be used for fuel in university.....	88
to be used in insane hospital at Jamestown.....	86
commissioner of agriculture and labor to report on.....	154
maximum rates of transportation.....	367



<b>COMMISSIONER OF AGRICULTURE AND LABOR—</b>	
appropriation for clerk hire.....	92
to expend certain monies for destitute.....	98
to report on beet sugar manufacture.....	139
general duties—biennial reports, statistics, etc.....	151
office hours—duties of in relation to strikes and lockouts.....	153
duties of in relation to immigration—public exhibits and statistics..	153
ex-officio dairy commissioner.....	154
salary.....	155
<b>COMMISSIONER OF INSURANCE—</b>	
appropriation for clerk hire.....	92
duties of.....	251
office expenses, how paid.....	252
seal—vacancy—bond, etc.....	252
deputy—annual reports.....	252
to prepare form of uniform insurance policy.....	253
may revoke charter of insurance for failure to satisfy judgment....	255
to select newspapers to publish insurance statements.....	260
<b>COMMISSIONERS OF RAILROADS—</b>	
appropriation for clerk hire.....	93
duties as to common carriers.....	349-373
duties as to sleeping car licenses.....	423
duties as to public warehouses.....	425
duties as to grain inspection.....	525
to appoint state weighmaster.....	535
secretary to act as registrar.....	533
<b>CONSTITUTIONAL CONVENTION—</b>	
appropriation for deficiency.....	96
<b>CONSTITUTION OF STATE—</b>	
appropriation for publishing.....	97
proposed amendment to increase state limit.....	332
<b>CORPORATIONS—</b>	
manner of changing headquarters.....	157
liability of.....	545
<b>COUNTY AUDITOR—</b>	
to levy tax for support of common schools.....	202
to keep file of official estray paper.....	240
duty of as to prohibition.....	309
duty as to distribution public documents.....	345
duty as to assessment and collection of taxes.....	376
duties as to seed grain.....	444
duties as to dog license.....	457
furnish abstract of tax lists.....	515
<b>COUNTY BOUNDARIES—</b>	
certain townships to be annexed to Ramsey.....	549
<b>COUNTY COMMISSIONERS—</b>	
duties of in relation to issuing county bonds.....	133
to levy tax for payment of interest.....	134
to designate public places for sale of chattels.....	146
regulating number of—election, etc.....	155
to fix salaries of county officers.....	167
duties of in relation to relocating county seats.....	168
empowered to allow compensation to pay deputy for register of deeds and county clerk.....	175
to appropriate money for official estray papers.....	240
may order drawing of grand jury.....	248
to select jurors.....	267

<b>COUNTY COMMISSIONERS—Continued.</b>	
duties in relation to herd law.....	274
duties as to taxes.....	376-415
levy tax for municipal purposes in certain cases .....	432
act as county board of equalization.....	392
duties as to seed grain.....	449
to appoint sheep inspectors.....	460
may offer bounty for wolf scalps.....	462
<b>COUNTY COURTS—</b>	
judge's salary fixed by population of county.....	158
clerk hire.....	159
population, how determined.....	159
providing fund to reimburse county for expense of court.....	159
manner of conferring additional jurisdiction.....	160
Practice of courts having criminal jurisdiction—terms, etc.....	161
complaint and answer—motions and demurrers—judgment—jury—calendar, etc.....	162
judgment liens—writs—process, etc.....	163
service—appeal bond—depositions—continued causes—appearance—adjournment—docket—costs, etc.....	164
regulating proceedings in probate matters .....	165
granting power to direct the mortgaging of real estate belonging to minors, etc .....	166
duties in relation to marriage records.....	277
duty of as to prohibition.....	309
duties as to common carriers.....	349-375
<b>COUNTY OFFICERS—</b>	
salaries fixed by county commissioners.....	167
<b>COURT RECORDS—</b>	
transfer in certain cases.....	169
duty of clerk in relation to.....	169
actions to be tried in subdivisions where cause arose.....	169
<b>COUNTY SEATS—</b>	
manner of relocating.....	168
<b>COUNTY TREASURERS—</b>	
duties of in relation to taxation of school lands.....	122
duties of in relation to county courts.....	159
to keep institute fund.....	181
duties of in relation to school monies.....	198
duties as to collection delinquent taxes.....	433
duty as to collection of taxes.....	376
furnish quarterly statements.....	515
to pay interest on certain county bonds—commission.....	134
to pay over certain bridge tax .....	145
custodian of monies collected for estrays.....	241
to keep record of certain estrays.....	242
<b>DEAF AND DUMB SCHOOL—(see <i>State Institutions</i>).....</b>	
<b>DENTAL SURGERY—</b>	
who may practice dentistry—license.....	170
board of examiners—officers—record, etc.....	170
certificate of registration—fee.....	171
examination and qualification of practitioners.....	171
temporary license.....	172
who regarded as practicing dentistry.....	172
fee for examination—annual reports.....	173

<b>DENTAL SURGERY—Continued.</b>	
salary of secretary and board.....	173
penalty for violation of act—appeals.....	173
penalty for false pretense.....	174
<b>DEPUTIES—</b>	
appointment and bond of deputy state and county officers.....	174
appointment, how made.....	175
appointment of deputy county clerk and register of deeds in cer- tain cases.....	175
insurance commissioner.....	252
<b>DISTRICT COURTS—</b>	
providing for interchanging of district judges.....	176.
duties as to common carriers.....	363
duties to charge jury as to trespass.....	441
duties as to support of married women.....	493
<b>EDUCATION—</b>	
<b>SUPERINTENDENT OF PUBLIC INSTRUCTION.—(see <i>State Superin-</i></b>	
<i>tendent of Public Instruction.</i> )	
election—qualification—term of office—bond.....	177
to preserve miscellaneous documents.....	177
ex-officio member of board of university and school lands.....	177
ex-officio member state normal school board.....	177
to furnish school supplies.....	177
to prepare teachers' certificates, questions for examination, etc.....	178.
to prepare and prescribe course of study for public schools.....	178.
to prescribe rules for teachers' institutes, appoint conductors, etc....	178
to advise county superintendents, decide appeals, etc.....	178
record of official acts.....	178
school laws to be printed.....	178
conference with county superintendents.....	178
seal.....	178
to assist teachers' institutes.....	178
biennial report—what to contain—number and distribution of.....	179
salary and traveling expenses.....	179
duties in relation to plats of school districts.....	187
vacancy—how filled.....	204
duties of in relation to institutes.....	211
may designate certain colleges for normal instruction.....	212
<b>COUNTY SUPERINTENDENT OF SCHOOLS—</b>	
election—term of office.....	179
bond.....	180.
date of first election.....	180
general duties of superintendent.....	180.
record of official acts.....	180.
meetings with school officers.....	181
to decide questions of controversy.....	181
power to administer oaths—to revoke certificates, etc.....	181
institute fund—how raised, how used.....	181
apportionment of state tuition fund.....	181
teachers' certificates—when revokable.....	181
report to state superintendent.....	182
duties in relation to appraisalment of school lands—fees.....	182
office rent, postage and stationery.....	182
salary—deputy—traveling expenses, etc.....	182
qualification of superintendent.....	183
to give notice of elections.....	188
duty of in relation to bonds of school district officers.....	192
to apportion school funds.....	200
vacancy—how filled.....	204

<b>EDUCATION—Continued.</b>	
to hold public examination of teachers.....	207
member county board of appraisal—duties in relation to lease and sale of school lands.....	434
<b>SCHOOL DISTRICTS—</b>	
what shall constitute distinct school corporation.....	183
boundaries of school township to conform with civil township where possible.....	183
what territory may be organized into district school corporations..	184
new school districts—how formed.....	184
when school corporations may be divided and attached to other districts.....	184
how district system may be changed to township, when.....	184
parts of three or more districts may be consolidated into separate school districts.....	185
when civil township may consolidate into school district.....	185
name of school district.....	185
boundaries—when to be arranged and established.....	185
boundaries—how changed in future.....	186
rights and powers of school corporations.....	187
plats of school districts to be filed.....	187
<b>SPECIAL DISTRICTS—</b>	
what cities governed by provisions of this act.....	219
how organized.....	220
election of board of education.....	221
terms of office—quorum—meetings.....	221
organization of board.....	221
duties of president and clerk.....	221
powers and duties of board.....	222
board to make reports.....	223
supervision of schools—annual school tax levy.....	223
expenditures—contracts.....	224
treasurer, duties of—bond.....	224
equalization of school debts and property.....	224
when district may dissolve.....	225
vacancies, how filled—oath.....	227
bonds, how and when may be issued.....	227
tax levy for interest and sinking fund.....	228
investment of sinking fund.....	228
interest—security—bond register.....	229
<b>ELECTIONS—</b>	
date of for district officers.....	187
for school directors.....	187
for school treasurer.....	187
terms of office.....	187
polling places—judges—qualifications of electors.....	188
of county superintendent.....	188
hours polls open—notices of election.....	188
judges—votes, how canvassed—certificates of election.....	189
oath of school officers.....	190
of boards of education in special district.....	221
to vote bonds.....	216
notice of election of board—election precincts—canvass of returns	226
certificates of election.....	227
to vote bonds in special districts.....	227
<b>DISTRICT SCHOOL OFFICERS—</b>	
board of directors—organization, clerk.....	190
meetings of board—fees.....	190
duties of president.....	191
duties of clerk—compensation.....	191

**EDUCATION—Continued.**

treasurer's bond—vacancy—how filled.....	191
school funds, how paid out.....	191
warrants to be indorsed when funds not in treasury to pay.....	192
warrants—what to specify.....	192
oaths and bonds to be filed.....	192
salary of school treasurer.....	193
powers and duties of district board.....	193
teachers—how employed—qualification.....	193
admission of pupils from other districts—rules—suspension of pupils.....	193
branches of study.....	194
tax levy to be noticed to county auditor.....	194
control of school houses—selection of sites.....	194
schools to be organized on petition.....	195
school terms—when school may be discontinued.....	196
district high school—how established.....	196
school census—clerk's annual report.....	197
English language only to be taught.....	198
vacancy in office of director, treasurer or clerk—how filled.....	204
penalty for neglect of duty.....	214
use of school funds for private use an embezzlement.....	215
<b>SCHOOL FUNDS—</b>	
state tuition fund—how raised.....	198
county treasurer to report quarterly to state auditor.....	198
apportionment of state tuition fund.....	198
funds from sale and lease of school lands.....	198
funds controlled and paid out by district treasurer.....	199
apportionment of funds.....	200
treasurer's accounts—how kept.....	200
<b>TAXES—</b>	
school taxes—how and when collected.....	201
levy to be made by school board.....	202
county auditor's duty in relation thereto.....	202
maximum levy—taxes to be uniform.....	203
statement of assessed valuation.....	203
adjustment of indebtedness of district in case of illegal board or failure to elect board.....	203
equalization of indebtedness to be arrived at by arbitration.....	204
tax to equalize and pay previous debts.....	205
maximum tax levy for all school purposes.....	205
<b>EXAMINATIONS AND CERTIFICATES—</b>	
questions for examinations of applicants for teachers' certificates... professional certificates, who entitled.....	206
normal certificates, who entitled.....	206
fee for issuing certificates—certificate, how revoked.....	207
examination of teachers by county superintendents.....	207
teachers' grades, how established.....	207
qualification of teachers.....	208
fee for certificate—certificates, when revokable.....	208
duties of teachers.....	209
teachers' register, what to contain.....	209
school year and school week defined.....	209
branches to be taught in public schools.....	210
<b>INSTITUTES—</b>	
how noticed.....	210
penalty for failure to attend.....	210
county institute fund—how created.....	211
state institute fund—institute conductors.....	211
state institute fund—how paid out.....	212

EDUCATION—*Continued.*

MISCELLANEOUS—	
bible not deemed a sectarian book—reading of optional with pupil..	211
normal instruction.....	212
compulsory attendance—school age—who exempt.....	213
child labor prohibited during school hours.....♦	214
penalty for willful disturbance of public school.....	216
proposals for contracts.....	216
proposals for building school houses.....	218
BONDS—	
school district bonds, how issued.....	216
notice of election—denomination—rate of interest—limit of issue..	217
bond record.....	217
assessment for sinking fund and tax.....	218
bonds, how negotiated—cancelled bonds, record of.....	218
how voted in special districts.....	227
INDEPENDENT SCHOOL DISTRICTS—(see <i>Boards of Education.</i> ).....	
how organized—election.....	230
notice of election.....	230
boundaries.....	231
board of education.....	231
election—canvass of votes.....	231
vacancies—powers of board.....	232
responsibility—meetings.....	232
secretary duties of.....	233
powers of board.....	233
collection of tax—amount limited.....	233
bonds, authority to issue.....	234
treasurer to handle all monies—bond of treasurer.....	234
powers of board defined.....	235
non-resident pupils.....	236
expenditures limited.....	236
report of city treasurer.....	237
city council to pass certain ordinances.....	237
forfeit for failure to serve on school board.....	237
new board to assume debts of old board.....	238
ELECTIONS—	
regulating use of proxies.....	330
schools—(see <i>Education.</i> ).....	177-239
ELEVATORS—(see <i>Warehouses.</i> ).....	
	525
ESTRAYS—	
who make take up estrays.....	239
when estrays may be taken up.....	239
advertisement of estrays.....	240
official estray paper—county auditors to keep file of.....	240
owner may take estray by paying costs.....	240
arbitration in case of dispute.....	240
appraisal—fees for keeping, etc.....	241
in case value of estray exceeds \$50.....	241
fees for keeping, etc., to constitute first lien.....	242
certain animals prohibited from running at large—penalty.....	243
notice of taking up estray to be sent to secretary of state.....	143
when certain animals prohibited from running at large.....	274
EXPRESS COMPANIES—(see <i>Revenue and Taxation.</i> )	
license of.....	421
FEES—	
for publishing state constitution.....	97
for inspection of steam boilers.....	128
for filing record of brands and earmarks.....	141

<b>FEES—Continued.</b>	
for publishing insurance statements.....	259
of boundary line commissioner.....	262
for issuing marriage licenses.....	278
publishing delinquent tax list.....	402
supreme court clerk.....	497
<b>FLAGS—</b>	
purchase of by school boards authorized.....	244
to be displayed on public buildings.....	244
<b>FORESTRY—</b>	
bounty for tree planting.....	245
proof of tree planting to be certified to state auditor.....	245
<b>FISCAL YEAR—</b>	
time of fixed.....	546
<b>GOPHER TAX—(see Revenue and Taxation).....</b>	432
<b>GOVERNOR—</b>	
to approve clerical appointments of state officers.....	92
appropriation for clerk hire.....	92
to approve certain accounts of commissioner of agriculture and labor.....	98
to approve bond of attorney general.....	104
to appoint board of agriculture.....	115
member of board of university and school lands.....	119
to sign patents of school lands.....	121
to appoint board of boiler inspectors.....	124
to appoint board of dental examiners.....	170
to designate official estray paper.....	240
to fill vacancy in office of commissioner of insurance.....	252
to appoint boundary line commissioner.....	262
to appoint board of medical examiners.....	280
to appoint oil inspector.....	296
to appoint board of pharmacy.....	302
duty of as to reports state officers.....	345
member board of equalization.....	394
duties in relation lease and sale school lands.....	434
to appoint board academy of science.....	463
to appoint board agricultural college.....	468
to appoint board deaf and dumb school.....	472
to appoint board normal school, Mayville.....	477
to appoint board normal school, Valley City.....	480
to appoint board reform school.....	483
to appoint board soldiers' home.....	488
ex-officio member board deaf and dumb school.....	472
ex-officio director normal school, Mayville.....	477
to approve appointment of institution treasurers.....	512
to appoint veterinary surgeon.....	521
<b>GRAIN GRADING—(see Warehouses).....</b>	529
<b>GRAND JURIES—</b>	
abolishment of except in certain cases.....	246
how drawn hereafter.....	248
<b>INSANE HOSPITAL—</b>	
appropriation for.....	86
to use native coal.....	86
uniform accounts.....	511
<b>INSURANCE—(see Commissioner of Insurance.)</b>	
uniform policies.....	253
when charter of insurance company revokable.....	255

INSURANCE— <i>Continued.</i>	
regulating writing of every kind—policies written in another state invalid.....	257
relating to county mutual companies.....	258
publication of insurance statements, etc.....	259
INTOXICATING LIQUORS—(see <i>Prohibition.</i> ).....	309
IRRIGATION—	
townships authorized to raise tax.....	149
JOINT COMMISSION—	
to effect final adjustment between North and South Dakota.....	261
who to constitute commission—duties and powers.....	261
JUDGMENT AND DECREES—	
authorizing transcripts of judgments of U. S. courts to be filed with clerks of district courts.....	266
effect of judgment in an action of foreclosure of lien on real prop- erty.....	267
JUDICIAL DISTRICTS—	
subdivisions and date of terms of court in first.....	263
subdivisions and date of terms of court in sixth.....	264
JURISDICTION U. S. LANDS.....	543
JURORS—	
manner of electing.....	267
LEGAL PRINTING—	
what newspapers qualified to do.....	346
LEGISLATIVE ASSEMBLY	
appropriation for mileage and per diem.....	89
per diem and mileage.....	90
appropriation for stationery.....	93
employes, duties and compensation.....	268
LEGISLATIVE EMPLOYES—	
number of—duties.....	268
salaries, how audited.....	270
clerks to keep journals.....	341
LIBRARY, STATE—	
appropriation.....	492
secretary to purchase books.....	492
care and custody.....	493
accounts, how paid.....	493
LICENSES—(see <i>Revenue and Taxation.</i> )	
peddlers.....	430
public warehouses.....	425
sleeping cars.....	423
express companies.....	421
dogs.....	457
LIENS—	
priority of threshing liens.....	272
mechanics' for repairing threshing engines.....	272
seed grain.....	444
LIVE STOCK—	
unlawful for certain to run at large at certain times of year.....	274
regulating shipment of.....	366
MARRIAGE LICENSES—	
age of consent—who disqualified.....	276
when marriage void.....	276
who may solemnize marriages.....	277



MARRIAGE LICENSES— <i>Continued.</i>	
license and certificate.....	277
county court to keep record—duty of county courts in relation to marriage records, etc.....	277
MARSHALS OF SUPREME COURT—	
appointment of.....	275
compensation—liability.....	275
MECHANICS—	
protection of on public work.....	329
MEDICAL SCIENCE—	
when dead bodies may be used for promotion of medical science...	279
duties of physicians and surgeons.....	280
BOARD OF MEDICAL EXAMINERS—	
how appointed—qualification.....	280
officers—meetings—record of licenses.....	281
examinations—licenses, when revokable.....	281
licenses to be filed—penalty for practicing without license.....	282
MILITIA—	
appropriation for deficiency.....	95
suspension of militia laws till 1893.....	283
appropriation for armory rent, and salary of adjutant general.....	283
MUNICIPALITIES—	
assessments for local improvements in incorporated cities.....	284
assessment for local improvements in certain cases.....	285
municipal bonds.....	286
increasing tax levy for municipal purposes.....	286
empowering cities to acquire title to certain real estate.....	287
amending general law for incorporated cities.....	288
municipal taxes void when.....	412
when county commissioners may levy tax.....	432
NORMAL SCHOOL, MAYVILLE—(see <i>State Institutions</i> ).....	476
NORMAL SCHOOL, VALLEY CITY—(see <i>State Institutions</i> )....	480
NOTARIES PUBLIC—	
amendment to general law.....	290
may use old seals temporarily.....	443
NOXIOUS WEEDS—	
manner of destroying—fees.....	292
when expense entered as tax against property.....	292
OATHS—	
district judges authorized to administer.....	296
OBSCENE LITERATURE—	
sale or exhibition to minors prohibited.....	293
minors excluded from trial.....	293
OFFICIAL OATHS, CIVIL OFFICERS.....	295
OIL INSPECTION—	
appointment of inspector—removal.....	296
how inspected.....	297
deputies—bonds—duties and powers of inspectors.....	297
fees.....	298
penalty for selling rejected oil.....	298
record of inspection.....	299
penalty for false brands and adulteration.....	300
complaints of violation.....	301
PENITENTIARY—	
appropriation for.....	87
uniform accounts.....	511

<b>PHARMACY—</b>	
regulating practice of.....	302
appointment of board.....	302
organization and duties.....	303
certificates—fees.....	304
qualification of assistants.....	304
annual fees.....	304
salary, secretary and board.....	305
annual reports.....	305
penalty for adulteration of drugs.....	306
poisons defined.....	306
register of.....	306
prosecutions for violation.....	307
forfeited membership, how renewed.....	307
<b>PRESIDENTIAL ELECTORS—</b>	
when electors convene.....	308
vacancies, how filled.....	308
<b>PROHIBITION—</b>	
penalty for manufacture or sale.....	309
who may lawfully sell.....	309
druggists' permit.....	309
application to be published.....	309
bond approved by county judge.....	309
appeal, how taken.....	309
conditions of physicians' prescription.....	312
regulation sale by druggists.....	312
county auditor furnish affidavit blanks.....	312
record of sales.....	312
penalty for false record.....	312
penalty for false affidavit.....	315
intoxicating liquors defined.....	316
life of liquor permit.....	316
peace officers to apprehend and notify.....	316
duty of state's attorney.....	317
seizures and arrests.....	317
powers of justices of the peace.....	317
information to be filed in certain cases.....	318
trial and penalty for conviction.....	318
fees.....	319
county treasurer custodian of fines.....	319
when attorney general to prosecute.....	319
nuisance, how abated.....	320
when stocks of liquor to be destroyed.....	320
presumptive evidence.....	321
process.....	321
liability for causing intoxication.....	323
action of injured parties.....	323
club houses prohibited.....	324
unlawful evasion.....	324
finer and costs a lien.....	324
informer protected.....	324
speedy judgment.....	325
presumptive evidence admissible.....	325
government receipt prima facie evidence of sale.....	325
special charge to grand jury.....	326
druggists, when prohibited from sale.....	326
penalty for treating.....	326
liability of common carriers.....	327
imprisonment.....	327
surrender of bond.....	327

<b>PROHIBITION—</b> <i>Continued.</i>	
penalty negligence, judge, attorney or auditor .....	327
state's attorney defined.....	327
obligation to pay for unlawful sale of liquor void.....	327
negotiated paper not affected .....	327
<b>PUBLIC CREDIT—</b>	
authorizing use funding warrants.....	330
increasing limit state debt.....	332
<b>PUBLIC EXAMINER—</b>	
duties of in relation to state banks.....	110
ex-officio superintendent of banks.....	114
powers and duties.....	333
<b>PUBLIC OFFICERS—</b>	
appropriation for maintenance.....	94
speculation in office prohibited.....	334
penalty for failure to make reports.....	335
<b>PUBLIC PRINTING—</b>	
appropriation for.....	99
commission.....	336
proposals, how received.....	336
maximum rates.....	337
bond.....	338
award of contract.....	338
style of bills, journals and executive documents.....	339
laws, how printed.....	340
established printing houses to do work.....	340
failure on contract.....	340
number of reports printed.....	340
inferior printing may be rejected.....	341
clerks to keep legislative journals.....	341
authentication.....	342
governor's messages.....	342
biennial reports state officers.....	342
number of journals and laws.....	342
commissioners, have charge public printing.....	342
accounts, how certified.....	343
distribution of public documents and laws.....	343
penalty for failure of officers to turn over to successors.....	343
document fund.....	344
duty county auditors to distribute documents.....	345
official reports made, when.....	345
<b>RAILROADS—</b>	
term railroad defined.....	349
to whom act applies.....	349
charges equal and reasonable.....	350
preferences forbidden.....	350
transfer facilities.....	350
continuous carriage of freight.....	250
unnecessary delay.....	351
common law liability.....	351
pooling prohibited.....	351
discrimination and rebates prohibited.....	351
long and short hauls.....	352
uniform distribution of cars.....	352
rules to be published.....	352
terminal charges switching and transferring.....	353
schedules printed and posted.....	353
notice of schedule changes.....	354
unlawful charges.....	354

<b>RAILROADS—Continued.</b>	
schedules to be filed.....	354
equalization of tariffs.....	354
rates fixed by commission.....	355
penalty refusing to publish and file schedules.....	355
appeals from commission.....	356
powers of courts.....	356
attorney general.....	357
duties of commissioners.....	357
liability for neglect of duty.....	358
suit in case of damages.....	358
officers compelled to attend as witnesses.....	358
grievances and petition.....	359
refusal to obey subpoena.....	359
findings of the commission.....	360
report to attorney general.....	361
attorney general to bring suit.....	361
appeals.....	361
commission may prosecute.....	363
courts always open.....	363
annual reports.....	363
reports of commission.....	364
litigation pending not affected.....	364
to build platforms.....	365
platform scales.....	365
commission to notify railroads.....	365
shipment of live stock and grain.....	366
maximum coal rates.....	367
transfer freight at crossings.....	368
warehouses and depots build on petition.....	369
actions against railroads, how brought.....	370
tariff for transferring cars.....	370
penalty for failure to transfer.....	370
intersected railroads to bear expense equally.....	370
to build and repair crossings.....	371
side tracks adjoining coal mines.....	372
transfer of railroad bonds.....	374
right of way maps to be filed.....	374
<b>REFORM SCHOOL—(see <i>State Institutions</i>).....</b>	<b>483</b>
<b>REGISTER OF DEEDS—</b>	
duties of in relation to brands and earmarks.....	141
duties as to seed grain.....	445
<b>REPEAL—</b>	
of sections 1 and 3, chapter 7, political code.....	106
chapter 13, laws 1887.....	135
chapter 61, laws 1881.....	144
chapter 144, laws of 1885.....	151
chapter 66, laws 1885.....	154
section 1, chapter 44, laws 1883.....	229
sections 386, 403, 405, 406, 408, 410, 411, 539, civil code.....	251
section 4, chapter 58, laws 1879.....	331
chapter 140, laws 1885, chapter 153, 1887.....	495
sections 2, 3, 4, 5 and 6, chapter 56, laws 1879.....	499
chapter 32, laws of 1887, chapter 60, laws of 1887.....	548
<b>REPORTS—</b>	
of attorney general.....	105
of state banks to public examiner.....	111
of state board of agriculture.....	118
of board of dental examiners.....	173
of commissioner of agriculture and labor.....	154

<b>REPORTS—Continued.</b>	
of commissioner of insurance.....	252
of state officers when made.....	342
of railroads.....	363
quarterly reports county officers to be published.....	375
school officers (see <i>Education</i> ).....	177
oil inspector.....	300
board of pharmacy.....	305
penalty for failure to make.....	335
biennial reports, number of.....	342
when reports to be made.....	345
agricultural college.....	471
deaf and dumb school.....	475
normal school, Mayville.....	479
normal school, Valley City.....	482
soldiers' home.....	490
veterinary surgeon.....	522
<b>RESOLUTIONS, JOINT AND MEMORIALS—</b>	
requesting passage of certain pension bills.....	551
for 5 per centum sale of public lands.....	552
dredging devils lake harbor.....	553
<b>REVENUE AND TAXATION—</b>	
when school lands subject to taxation after sale.....	122
limit of municipal tax.....	286
city indebtedness.....	288
definition of terms used.....	376
property subject to taxation.....	377
real property defined.....	377
personal defined.....	377
exempt property.....	377
manner of listing.....	378
place of listing personal property.....	379
property of transportation companies, where listed.....	379
gas, water, telegraph and telephone companies, where listed.....	379
street railway companies, where listed.....	380
property non-residents, where listed.....	380
personal moved between May and July, where listed.....	380
place of listing in case of doubt.....	380
personal property listed under oath.....	380
valuation fixed by assessor.....	381
items to be enumerated by assessor.....	381
examination under oath by assessor.....	382
refusal to answer, penalty.....	382
credits, how listed and assessed.....	382
proper deductions.....	382
verification of deductions.....	382
merchants defined.....	383
consigned property.....	383
manufacturers defined.....	383
what manufactures listed.....	383
company and association property, how listed.....	383
bankers, brokers and stock jobbers.....	384
bank stock, where and at what valuation.....	385
bank to furnish list of stockholders.....	385
taxes on bank stock—lien on dividends.....	385
lessee or equitable owner.....	386
assessed at full value.....	386
value, how determined.....	386
county auditor to furnish books and tax lists—(see <i>page 415</i> ).....	387
to furnish lists of mortgages.....	387

REVENUE AND TAXATION—*Continued.*

meeting of assessors.....	387
boundaries of assessors districts.....	387
vacancies, how filled.....	387
fees and eligibility.....	387
bond and oath of assessor.....	388
assessments, when and how made.....	388
improvements, how listed.....	388
owner to state personal property.....	389
duty of assessor when owner absent or sick.....	389
refusal to list or swear to statement.....	389
assessor to administer oath.....	390
number of school district to be given.....	390
duty of assessor upon failure to obtain assessment.....	390
town board of review.....	390
complaints and grievances.....	390
notice meeting board of review.....	391
assessor's statement and return to auditor.....	391
list of absent or sick to auditor.....	392
auditor to examine.....	392
county board of equalization, when to meet.....	392
duties of board of equalization.....	392
valuation of real property raised or lowered.....	393
auditor to publish record of board.....	393
corrected lists.....	394
abstracts for state auditor.....	394
state board of equalization.....	394
rules for equalizing.....	394
record of proceedings to be published.....	395
synopsis sent to county auditors.....	395
duty of auditor after equalization.....	395
taxes to be levied in specific amounts.....	395
tax rate, how determined.....	395
tax lists made out by county auditor.....	396
form of tax books.....	396
certificate auditor to tax books.....	396
tax lists delivered treasurer, when.....	396
treasurer collector of taxes.....	397
what receipts shall specify.....	397
what orders pay taxes.....	397
delinquent personal tax.....	397
penalty and distress.....	397
list uncollected taxes to be filed.....	398
cancellation by commissioners.....	398
judgment for delinquent taxes.....	398
clerks' fees for judgment.....	399
executions on judgments.....	399
penalty for treasurers' neglect.....	399
removal of delinquent tax payer.....	399
duty of auditor.....	399
manner of collecting.....	400
fees for distress and sale.....	400
settlement between treasurer and auditor.....	400
accounts with townships.....	401
treasurer to pay funds collected.....	401
return of tax lists.....	401
when penalty attaches.....	401
notice of tax sale.....	402
farm lands in bulk offered.....	402
penalty and interest.....	402
auditor to sell public at vendue (see <i>page 416</i> ).....	403

REVENUE AND TAXATION—*Continued.*

certificate of sale each parcel.....	403
certificate as evidence.....	404
avoiding sale.....	404
tax sale record.....	404
fees for deed and certificate.....	404
who may not purchase.....	405
purchase by owner.....	405
subsequent taxes.....	405
property bid for state.....	405
form of assignment.....	405
redemption.....	406
when state right not assigned.....	406
when right assigned.....	406
when sold to purchaser.....	406
certificate of auditor, receipt by treasurer.....	407
redemption by minors, when made.....	407
undivided estates, how redeemed.....	407
warrants for money due owners.....	407
rights of purchaser when land not redeemed.....	407
void sales.....	408
sale of property bid in for state.....	408
deed.....	409
taxes paid by occupant or tenant.....	409
taxes paid by mortgagees or others.....	409
lien of personal property taxes.....	409
deed, when recorded.....	410
divisions of valuation.....	410
irregular tracts platted.....	411
abbreviations in descriptions.....	411
letting publication tax lists.....	411
auditor to correct lists.....	412
uncollected taxes added to next year.....	412
municipal taxes void, when.....	412
exempt property valued and assessed.....	413
neglect of duty, penalty.....	413
suits against officers.....	413
list new taxable lands.....	413
redemption notice.....	414
duties certificate holders and auditors.....	414
redemption, owner dies after sale.....	414
same by executor.....	414
certificate by auditor.....	414
existing laws not affected.....	415
extending time delivery assessment books.....	415
<b>RAILROAD TAXATION—</b>	
gross earnings.....	418
when company fails to make return.....	418
neglect to pay taxes.....	418
state treasurer to distrain.....	418
how taxes apportioned.....	419
acceptance of gross earnings system.....	419
railroads not exempt, when.....	419
property assessed by board of equalization, when.....	420
apportionment to counties by mileage.....	420
mileage and valuation.....	420
taxes in unorganized counties.....	421
<b>EXPRESS COMPANIES—</b>	
license, how procured.....	421
express company defined.....	422

<b>REVENUE AND TAXATION—Continued.</b>	
license fee, how determined.....	422
companies notified of fee required.....	422
fees to state treasury.....	422
records.....	422
penalty.....	422
<b>SLEEPING CARS—</b>	
license.....	423
when to be paid.....	423
statement of company.....	423
fee to general fund.....	424
penalty.....	424
distress and sale.....	424
sleeping cars exempt.....	425
<b>PUBLIC WAREHOUSES—</b>	
license, how obtained.....	425
fee, how determined.....	425
license to be posted.....	426
<b>MISCELLANEOUS CORPORATIONS—</b>	
taxation of corporate stock.....	426
fee paid increase capital stock.....	426
receipt filed with secretary of state.....	427
<b>UNORGANIZED COUNTIES—</b>	
assessment and taxation.....	427
equalization and levy.....	427
tax lists, how kept.....	428
treasurer to collect taxes.....	428
special assessors.....	428
<b>BANKRUPT STOCKS—</b>	
how assessed and taxed.....	429
sale if tax refused.....	429
<b>PEDDLERS—</b>	
peddling unlawful, when.....	430
license, how obtained.....	430
license fee.....	430
license, how issued.....	431
incorporated towns and cities not affected.....	431
penalty.....	431
<b>GOPHER TAX—</b>	
levy, how made.....	432
fund, how used.....	433
<b>EXTENSION OF TIME, PAYMENT OF TAXES—</b>	
when taxes delinquent.....	433
when penalty added.....	433
distress and sale.....	433
duty of county treasurer.....	433
<b>SCHOOL LANDS—</b>	
deeds of, how recorded.....	434
controlled by board university and school.....	434
county boards of appraisal.....	434
list of school lands, how made.....	434
lands to be leased.....	435
advertisement.....	435
lands, how leased.....	435
annual rent, how paid.....	435
leasing, how conducted.....	436
record of.....	436
contract of lease, how executed.....	436



<b>SCHOOL LANDS—Continued.</b>	
rents paid to state treasurer.....	436
lessee not to destroy timber.....	436
not to break uncultivated land.....	436
hay not cut before July 10.....	437
fees for lease of lands.....	437
when lands appraised.....	437
returns of appraisal.....	437
what lands designated for sale—(see <i>Page 440</i> ).....	438
date of sale.....	438
manner of advertising and conducting.....	438
terms of sale.....	438
lists of lands certified to state auditor.....	438
possession.....	438
sales approved by state board.....	438
board certify approved list to county board.....	439
successful purchasers notified.....	439
execution of contracts.....	439
payment interest on deferred payments.....	439
when patents issue.....	439
when land subject to taxation.....	439
when contract of sale void.....	439
expense of lease and sale, how paid.....	440
penalty for trespass.....	441
who held trespassers.....	441
courts to charge grand juries.....	441
willful trespass.....	442
forcible entry and detainer, when applicable.....	442
duties state's attorneys.....	442
duty attorney general.....	442
damages paid to state treasurer.....	442
<b>SEALS—</b>	
State, court and other official, described.....	443
<b>SECRETARY OF STATE—</b>	
appropriation for clerk hire.....	92
to copy certain records.....	97
to approve certain accounts of the commissioner of agriculture and labor.....	98
to file certificates of organization of state banks.....	107
member of board of university and school lands.....	119
to attest patents for school land.....	121
to keep record of bonds of state officers.....	136
duties of in relation to brands and earmarks.....	141
member of printing commission.....	336
duties as to distribution of documents.....	344
to issue license sleeping car companies.....	423
duties as to lease and sale of school lands.....	434
to purchase books state library.....	492
to purchase territorial reports.....	500
to make trust inquiry, when.....	504
to revoke charter, when.....	505
to furnish university certain books.....	509
bond of where filed.....	544
to act as state depository of deeds.....	548
<b>SEED GRAIN—</b>	
liens on crops.....	444
applications, when filed (see <i>page 449</i> ).....	444
contain what.....	444
indebtedness for seed taxed against land, when.....	444
applications, how executed.....	445

SEED GRAIN—*Continued.*

endorsements of county auditor.....	445
applications, when filed.....	446
a lien, when.....	446
register of deeds to file.....	446
penalty false pretenses.....	446
right of possession.....	446
unorganized counties.....	446
counties to issue bonds (see <i>page 455</i> ).....	449
denomination and interest.....	449
bonds endorsed.....	449
bonds, how sold.....	450
proceeds, how applied.....	450
tax.....	450
bond register.....	450
warrants, when.....	450
funds, how applied (see <i>page 456</i> ).....	451
who benefitted.....	451
examination and adjustment.....	451
grain, how issued.....	452
value taxed land, when.....	452
lien on crop.....	452
payment, when made.....	453
penalty.....	453
information.....	453
grain, how distributed.....	453
applications, how received.....	453
duties of commissioners.....	454
sinking fund.....	454
options.....	454
tax, when not levied.....	454
SHEEP HUSBANDRY—	
damage by dogs.....	457
assessors to list owners.....	457
license.....	457
fund, how applied.....	457
payment does not bar action.....	458
proof of damages.....	458
proceedings before justice.....	458
fees of justices and witnesses.....	458
liability of owner.....	459
when dog may be killed.....	459
inspectors, how appointed.....	460
duties of inspectors.....	460
arrival of flocks.....	461
duty owner of diseased flock.....	461
scabby sheep.....	461
penalty for bringing into state.....	461
bounty for wolf.....	462
SLEEPING CARS—(see <i>Revenue and Taxation</i> .)	
license of.....	423
SOLDIERS HOME—(see <i>State Institutions</i> ).....	
488	
STATE AUDITOR—	
appropriation for clerk hire.....	92
to audit vouchers of constitutional convention.....	96
to issue funding warrants for constitutional convention deficiency.....	96
repeal of territorial law in relation to appointment.....	106
member of board of university and school lands.....	119
to file bonds of state officers.....	136
to apportion state tuition fund.....	198

<b>STATE AUDITOR—Continued.</b>	
to pay bounty for tree planting.....	246
member of joint commission.....	261
member of printing commission.....	336
duties as to railroads.....	370
member board of equalization.....	394
duties as to collection railroad taxes.....	421
to issue license to express companies.....	421
duties as to lease and sale school lands.....	434
duties as to uniform accounts public institutions.....	511
uniform system of accounts, keep.....	515
<b>STATE DEPOSITORY.....</b>	<b>548</b>
<b>STATE INSTITUTIONS—</b>	
<b>ACADEMY OF SCIENCE—</b>	
management.....	463
board, how appointed.....	463
powers of board.....	463
rules and regulations.....	464
oath and bond.....	464
plans and specifications.....	464
superintendent of construction.....	464
proposals for building.....	465
site.....	465
board not interested in contracts.....	465
official school visits.....	465
board control funds.....	465
expenses of board, how paid.....	465
faculty, how paid.....	465
appropriation (see <i>page 467</i> ).....	466
land grant (see <i>page 467</i> ).....	466
temporary funds.....	466
custodian of funds.....	466
record of proceedings.....	467
monies, how paid out.....	467
<b>AGRICULTURAL COLLEGE—</b>	
management.....	468
board, how appointed.....	468
commission and oath.....	469
organization and meetings.....	469
compensation and duties.....	469
accounts, how audited.....	470
course of study.....	470
salaries of faculty.....	470
rules and regulations.....	470
president's duties.....	470
faculty, annual report.....	470
reports.....	470
honorary degrees.....	471
experimental station.....	471
assent of legislative assembly.....	471
acceptance of land grant.....	471
per diem and mileage.....	472
<b>REFORM SCHOOL—</b>	
management.....	483
board, how appointed.....	483
commission and oath.....	483
officers.....	483
meetings.....	483
per diem and mileage.....	483
duties and powers.....	484

STATE INSTITUTIONS—*Continued.*

instruction of inmates .....	484
examination of school .....	484
biennial report .....	484
discipline .....	485
duties of superintendent .....	485
bond of superintendent .....	485
who may be sent .....	485
conviction before justice peace .....	485
order on parent or guardian .....	486
appearance and hearing .....	486
court may commit, when .....	486
judge certify in warrant, what .....	486
boy or girl to be remanded .....	486
complaint by parent or guardian .....	487
term of commitment .....	487
discharged for good conduct .....	487
incurrigibles .....	487
penalty aiding inmates to escape .....	487
appropriation .....	487
compensation of board conditional .....	487
<b>DEAF AND DUMB SCHOOL—</b>	
management .....	472
board, how appointed .....	472
organization of meetings .....	472
duties of officers .....	473
disposition of money .....	473
general duties of board .....	473
indebtedness limited .....	473
per diem and mileage .....	473
fee non-resident pupils .....	474
resident pupils .....	474
assessors to gather statistics .....	474
accounts for clothing .....	474
transportation of indigent persons .....	475
faculty .....	475
duties of principal .....	475
duties of matron .....	475
biennial reports .....	475
appropriation .....	476
<b>NORMAL SCHOOL, MAYVILLE—</b>	
endowment .....	477
management .....	477
board, how appointed .....	477
commission and oath .....	477
officers .....	477
meetings and compensation .....	477
funds, how raised .....	477
duties and powers of board .....	478
superintendent of construction .....	478
accounts, how audited and paid .....	478
course of study .....	478
salaries of faculty .....	479
faculty .....	479
principal's duty .....	479
reports .....	479
certificates .....	479
funds, how kept .....	479
<b>NORMAL SCHOOL, VALLEY CITY—</b>	
management .....	480

<b>STATE INSTITUTIONS—Continued.</b>	
board, how appointed.....	480
commission and oath .....	480
officers and meetings.....	480
per diem and mileage.....	481
duties and powers of board.....	481
accounts, how audited and paid.....	481
course of study.....	481
board to fix salaries.....	481
faculty .....	482
duties of principal.....	482
reports.....	482
certificates.....	482
compensation of board.....	482
<b>SOLDIERS' HOME—</b>	
objects .....	488
who may be admitted.....	488
granted lands and funds pledged.....	488
management.....	489
board of commissioners, how appointed .....	489
oath and bond.....	489
plans and specifications .....	490
superintendent .....	490
proposals .....	490
board not interested in contracts.....	490
secretary .....	490
meetings .....	490
annual reports.....	490
qualifications of commandant.....	490
compensation of subordinate officers.....	490
funds, how raised and kept.....	491
majority of board to approve contracts.....	492
accounts, how audited and paid.....	492
expenses of commission.....	492
<b>UNIVERSITY—</b>	
appropriation for.....	88
to use native coal.....	88
reimbursing banks for money advanced.....	89
providing for library.....	509
secretary to furnish books and reports.....	509
location of school of mines.....	510
military department.....	510
loan of muskets.....	510
uniform accounts.....	511
<b>STATE OFFICERS—</b>	
appropriation for salaries.....	90
appropriation for furniture and supplies for state officers.....	91
appropriation for clerk hire.....	92
depository for bonds of state officers.....	136
<b>STATE TREASURER—</b>	
appropriation for clerk hire.....	92
duties in relation to funding warrants for constitutional convention.	96
to approve certain accounts of commissioner of agriculture and labor.....	98
custodian of school funds.....	121
member of joint commission.....	261
member printing commission.....	336
duties as to collection railroad taxes.....	418
duties as to collections sleeping car licenses.....	423

STATE TREASURER— <i>Continued.</i>	
duties as to lease and sale school lands.....	439
member board academy of science.....	463
uniform system of accounts, keep.....	515
STATIONERS' SUPPLIES—	
commissioners printing furnish legislature and state officers.....	347
appropriation for.....	348
STOCK—	
when prohibited from running at large.....	243
SUPERVISORS—	
duties as to taxation.....	390
SUPERINTENDENT OF PUBLIC INSTRUCTION—(see <i>Education</i> )	
appropriation for clerk hire.....	92
member of board of university and school lands.....	119
transfer of powers heretofore devolved upon territorial board of education.....	229
duties as to lease and sale of school lands.....	434
member board academy science.....	463
ex-officio trustee deaf and dumb school.....	472
ex-officio director normal school Mayville.....	477
SUPERINTENDENT OF SCHOOLS—	
state—(see <i>Education.</i> ).....	177
county—(see <i>Education.</i> ).....	179
SUPPORT OF MARRIED WOMEN—	
may apply for relief district court.....	493
petition set forth, what.....	493
practice.....	494
decree modified or vacated, when.....	494
penalty for abandoning wife or child.....	494
SUPREME COURT—	
marshals of.....	275
duties as to common carriers.....	363
terms of.....	495
special terms, how called.....	495
conflicting acts repealed.....	495
CLERK OF SUPREME COURT—	
clerk of, how appointed.....	496
deputy.....	496
personally perform duties.....	496
syllabus for publication.....	496
salary.....	496
fees.....	497
fees to treasurer.....	497
additional fees.....	497
SUPREME COURT REPORTER—	
bond.....	498
duties of.....	498
receive record of cases.....	499
supervise publication of reports.....	499
copyright for state.....	499
salary.....	499
reports published, when.....	499
SUPREME COURT REPORTS—	
records, stationery.....	496
secretary purchase territorial.....	500
distribution.....	500
deputy county auditor or clerk.....	501

TAXATION—(see <i>Revenue and Taxation</i> ).....	376-434
for seed grain.....	444
THRESHING LIENS—	
priority of .....	272
mechanics' liens for repairing threshing engines.....	272
TRUSTS, POOLS AND COMBINATIONS—	
what deemed unlawful.....	501
liability of violators.....	502
penalty.....	503
conspiracy to defraud, when deemed.....	503
trust certificates unlawful.....	504
penalty.....	504
contracts, when void.....	504
purchaser not held for price, when.....	504
corporate rights forfeited.....	504
secretary of state, inquiry by.....	504
charter revoked, when.....	505
UNEXPENDED BALANCES—	
transfer county funds.....	506
transfer state funds.....	506
transfer commissioner of immigration.....	507
transfer reappropriating certain state funds.....	508
UNIFORM ACCOUNTS—	
institutions governed.....	511
accounting officer appointed.....	511
duties of.....	511
purchasing agent and duties.....	511
treasurer and duties.....	512
care and custody of funds.....	512
funds paid over.....	512
accounting officer—certain monies—duty.....	512
state auditor and treasurer, duties of.....	513
pay rolls duplicate monthly.....	513
bills for supplies.....	513
duty of storekeeper.....	514
expense list.....	514
auditor, duty, expense lists.....	514
unexpended appropriation, cancellation of.....	514
miscellaneous receipts, appropriation.....	515
AUDITOR AND TREASURER—	
keep county account, auditor.....	515
abstracts of tax lists.....	515
treasurer furnish quarterly statement of taxes.....	515
auditor draw on treasurer.....	516
state treasurer notify county treasurer.....	516
assessment on corporations.....	516
receipts, duplicate.....	516
apportionment of monies.....	516
monies, how paid.....	516
account, current.....	517
monthly statements.....	517
accounts with appropriations.....	517
blanks, books, etc.....	517
certain balances transferred.....	517
USURY—	
legal rate.....	518
highest rate.....	518
usury defined.....	518
contract to state interest.....	519

<b>USURY—Continued.</b>	
maker recover for usury.....	519
right of action to recover.....	519
proviso as to original owner.....	519
agreement, when void.....	520
order of court.....	520
witness in own behalf.....	520
court declare usurious, note void.....	520
building and loan associations exempt.....	520
<b>VETERINARY SURGEON—</b>	
appointment.....	521
duties.....	521
quarantine.....	522
proclamation for quarantine.....	522
diseased animals, slaughter.....	522
reports.....	522
contagious diseases reported.....	522
penalty.....	522
diseases, regulations of.....	523
salary and traveling expenses.....	523
qualifications.....	523
term of office and bond.....	523
stock quarantined, when.....	524
fines, to school fund.....	524
duties state's attorneys and attorney general.....	524
law of 1887 repealed.....	524
<b>WAREHOUSES—(see <i>Railroads</i>) (see <i>Revenue and Taxation</i>.).....</b>	
license of.....	349-376
warehousemen, public defined.....	425
provisions, who subject.....	525
intention filed with register.....	525
notice, contains what.....	525
bond.....	525
bonds, how approved.....	526
bond, when not required.....	526
storage receipt to contain.....	526
inferior grain.....	526
stored grain, how received back.....	527
books open for inspection.....	527
scales and grain testers, examination of.....	527
licenses, how procured.....	527
railroad commissioners, power of.....	528
state's attorney to prosecute.....	528
shipment own grain reserved.....	528
pooling prices prohibited.....	528
penalty.....	528
complaints.....	528
rates, maximum.....	529
responsibility, warehousemen.....	529
grain in store, how taxed.....	529
register of deeds fees.....	529
warehouses, public, defined.....	529
license, how procured.....	530
license, revokable when.....	530
bond.....	530
penalty for failure to take license.....	530
duty of warehousemen.....	530
discrimination prohibited.....	530
inspection and grading.....	531
receipt, contains what.....	531



**WAREHOUSES—Continued.**

issuance of receipts, how governed.....	532
liabilities not modified or limited.....	532
duty when receipt returned.....	532
statement to railroad commissioner.....	533
grain in store posted weekly.....	533
statement to warehouse registrar.....	533
who to act as registrar.....	533
schedule of rates to be published.....	534
maximum rates.....	534
mixing grades unlawful.....	534
scales open to inspection.....	534
weighmaster, state and assistants.....	535
duties of.....	535
fees for weighing, how paid.....	535
weighmasters, qualification of.....	535
bond, rules and regulations.....	535
penalty for obstruction.....	535
chief inspector, how appointed.....	536
bond.....	536
deputies, oath and bond.....	536
removals.....	536
rules and compensation.....	536
inspectors, qualification of.....	537
imposters, how punished.....	537
penalty neglect of duty.....	537
inspection a lien on grain.....	537
inspectors decision, final when.....	538
appeals.....	538
procedure in dissatisfaction.....	538
warehouseman and railroad company, duty of.....	538
unlawful combinations.....	538
North Dakota grades.....	539
standard samples.....	539
railroad commission, duties of.....	539
rules and regulations published.....	539
what monies paid state.....	539
funds, how kept.....	539
attorney general, duty of.....	539
selling by sample.....	540
grain not affected.....	540
appropriation.....	540
warehouse on railroad right of way.....	540
railroad company, duty of.....	540
warehouses declared public.....	541
rental, how determined.....	541
side tracks provided.....	542
individual privileges.....	542
public warehouses defined.....	543
<b>WITNESS FEES—</b>	
regulated, how.....	545