

LAWS

PASSED AT

THE SEVENTH SESSION

OF THE

LEGISLATIVE ASSEMBLY

OF THE

STATE OF NORTH DAKOTA.

BEGUN AND HELD AT BISMARCK, THE CAPITAL OF SAID
STATE, ON TUESDAY, THE EIGHTH DAY OF JAN-
UARY, A. D. 1901, AND CONCLUDED
MARCH EIGHTH, 1901.

FARGO, N. D.
SATTERTHWAITE & KNIGHT,
1901

AUTHENTICATION.

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

I hereby certify that the laws contained in this volume are true and correct copies of the original enrolled bills passed by the Legislative Assembly of the State of North Dakota, at the seventh session thereof, beginning January 8th, 1901, and terminating March 8th, 1901, now on file in this office, with the exception of clerical errors.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of North Dakota, this 24th day of April, 1901.

[SEAL.]

E. F. PORTER,
Secretary of State.

THE LAWS.

ABSTRACTS OF TITLE.

CHAPTER 1.

[S. B. 95.]

ABSTRACTS OF TITLE TO REAL ESTATE.

AN ACT Prescribing the Duties of County Auditors in Reference to the Certification of Abstracts of Title to Real Estate.

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

§ 1. AUDITOR TO CERTIFY ABSTRACTS. FEES.] It shall be the duty of the county auditor to attach his certificate to each abstract of title to real estate of his county that may be presented to him for that purpose, which certificate shall show the amount of taxes due and unpaid against, or tax title affecting the land described in such abstract, as the same may appear from the records of his office; and as compensation therefor he shall receive the sum of twenty-five cents for each abstract so certified, and for each failure or refusal to comply with the provisions of this act, he shall be liable to a fine of not exceeding one hundred dollars.

§ 2. EMERGENCY.] Whereas, an emergency exists in that the records of taxation are now kept in the office of the county auditor and there is no provision for his certifying to abstracts of title to real estate, therefore, this act shall take effect and be in force on and after its passage and approval.

Approved March 12, 1901.

ACKNOWLEDGMENTS.

CHAPTER 2.

[S. B. 46.]

DEFECTIVE ACKNOWLEDGMENTS.

AN ACT to Cure Defective Acknowledgments.

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

§ 1. DEFECTIVE ACKNOWLEDGMENTS.] That the acknowledgments of all deeds, mortgages or other instruments in writing, taken and certified previous to January 1, 1901, and which have been duly recorded in the proper counties in this state, be, and the same are hereby declared to be legal and valid in all courts of law and equity in this state or elsewhere, anything in the laws of the state of North Dakota in regard to acknowledgments to the contrary, notwithstanding; provided, that nothing herein contained shall in any manner affect the right or title of any bona fide purchaser without notice of such instrument or record thereof, for a valuable consideration, of any such property prior to said January 1, 1901; and provided, further, that a purchaser at any execution or foreclosure sale of any lands affected by this act, shall be considered a bona fide purchaser.

§ 2. EMERGENCY.] An emergency exists because of the unsettled condition of many titles throughout the state by reason of defective acknowledgments, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 1, 1901.

CHAPTER 3.

[H. B. 194.]

CURE OF DEFECTIVE ACKNOWLEDGMENTS.

AN ACT to Amend Section 3576 of Article 3 of the Revised Codes of North Dakota Relating to Proof and Acknowledgments of Instruments and to Cure Defective Acknowledgments.

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

§ 1. AMENDMENT.] That section 3576 of article 3 of the Revised Codes of North Dakota of 1899, be, and the same is hereby amended to read as follows:

§ 3576. WITHOUT THE UNITED STATES. BEFORE WHOM.] The proof or acknowledgment of an instrument may be made without the United States before either:

1. A minister, commissioner or charge d'affairs of the United States, resident and accredited in the country where the proof or acknowledgment is made; or
2. A secretary of legation, consul, vice consul or consular agent of the United States resident in the country where the proof or acknowledgment is made; or
3. A judge, clerk, register or commissioner of a court of record of the country where the proof or acknowledgment is made; or
4. A notary public of such country; or
5. An officer authorized by the laws of the country where the proof or acknowledgment is taken, to take proof or acknowledgments; or
6. When any of the officers mentioned in this article are authorized by law to appoint a deputy, the acknowledgment or proof may be taken by such deputy in the name of his principal.
7. All proofs or acknowledgments taken according to the provisions of this chapter prior to the enactment of this amendment are hereby declared to be sufficiently authenticated and to be entitled to record, and all such records hereafter made shall be notice of the contents of the instruments so recorded.

§ 2. EMERGENCY.] Whereas, an emergency exists because of the unsettled condition of many titles throughout the state by reason of defective acknowledgments, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 6, 1901.

ADULTERATION OF FOOD.

CHAPTER 4.

[H. B. 103.]

ADULTERATION AND MISBRANDING OF FOODS AND DRINKS.

AN ACT to Prevent the Adulteration, Misbranding and Selling of Adulterated and Unwholesome Foods and Beverages, Prescribing a Penalty for the Violation, and Charging the State's Attorney With the Enforcement Hereof.

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

§ 1. ADULTERATING AND MISBRANDING FOODS AND BEVERAGES.] It shall be unlawful for any person, his servant or agent, or while acting as the servant or agent of any other person or corporation, to manufacture for sale or offer for sale any article of food or beverage which is unwholesome or adulterated within the meaning of this act.

§ 2. WHAT CONSTITUTES ADULTERATION.] Any article of food or beverage shall be considered as unwholesome or adulterated within the meaning of this act:

First. If it contains any form of aniline dye or other coal tar dye.
Second. If it contains formaldehyde, benzoic acid, sulphites, sulphurous acid or salicylic acid.

Third. If any substance or substances have been mixed with it so as to reduce or lower or injuriously effect its quality or strength, so that such article of food or beverage when offered for sale, shall deceive or tend to deceive the purchaser.

Fourth. If any inferior or cheaper substance or substances have been substituted wholly or in part for the article, so that the product, when sold, shall deceive or tend to deceive the purchaser.

Fifth. If any necessary or valuable constituent of the article has been in whole or in part abstracted.

Sixth. If it be an imitation of or offered for sale under the specific name of another article.

Seventh. If it be labeled or branded so as to deceive or mislead the purchaser.

Eighth. If it consists wholly or in part of a diseased, decomposed, filthy or putrid animal or vegetable substance.

Provided, that an article of food or beverage shall not be deemed adulterated in the following cases:

First. If it be a compound or mixture of recognized food products and not included in definition sixth of this section.

Second. In the case of candies and chocolates if they contain no terra alba, barytes, talc, chrome yellow or other mineral substances, or aniline dyes or other poisonous colors or flavors detrimental to health.

Third. If in the case of baking powders or any mixture or compound intended for use as a baking powder they have affixed to each and every box, can or package containing such powder or like mixture or compound, a light colored label upon the outside and face of which there is distinctly printed with black ink and in clear, legible type the name and address of the manufacturers, the true and correct analysis of each and all the constituents or ingredients contained in or contributing a part of such baking powders, or mixture or compound intended for use as a baking powder.

§ 3. PENALTY FOR SO DOING.] Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor and shall for each offense be punished by a fine of not less than twenty-five (\$25) dollars or more than one hundred (\$100) dollars, and all necessary costs, including the expense of analyzing such adulterated articles when said person has been found guilty under this act.

§ 4. DUTY OF STATE'S ATTORNEY.] It shall be the duty of the state's attorney to prosecute all persons violating any of the provisions of this act.

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

§ 6. DATE OF TAKING EFFECT.] This act shall take effect January 1st, 1902.

Approved March 8, 1901.

ADVERSE CLAIMS.

CHAPTER 5.

[S. B. 84.]

ACTION TO DETERMINE ADVERSE CLAIMS.

AN ACT to Provide for Making Unknown Persons Parties Defendant in Certain Civil Actions and to Amend Sections 5904, 5905, 5906, 5907, 5907a, 5908, 5909, 5910, 5911, 5912, 5913, of the Revised Codes of North Dakota for 1899, Relating to the Determination of Conflicting Claims to Real Estate and Other Actions and Enacting Other Provisions Relating Thereto.

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

§ 1. AMENDMENT.] That sections 5904, 5905, 5906, 5907, 5907a, 5908, 5909, 5910, 5911, 5912 and 5913 of the Revised Codes of North Dakota of 1899, be, and the same are hereby amended to read as follows:

§ 5904. ACTION TO DETERMINE ADVERSE CLAIMS.] An action may be maintained by any persons having an estate or an interest in or lien [or] incumbrance upon real property whether in or out of possession thereof, and whether said property is vacant or unoccupied against any person claiming an estate or interest in or lien or incumbrance upon the same for the purpose of determining such adverse estate, interest, lien or incumbrance.

§ 5905. USE AND OCCUPATION. WASTE. PLEADING. POSSESSION.] A recovery may be had in the action by any party against the defendant personally served or who has appeared or against the plaintiff for the value of the use and occupation of the premises and for the value of the property wasted or removed therefrom, in the case of a vendor holding over or a trespasser as well as in case where the relation of vendor has existed. If such recovery is desired by plaintiff he shall allege the fact, stating particularly the value of the use and occupation, the value of the property wasted or removed, and the value of the real property aside from the waste or removal, and demand appropriate relief in his complaint. A recovery of possession may also be had by the plaintiff or any defendant asking for the affirmative relief.

§ 5906. JOINDER OF PLAINTIFFS.] Any two or more persons having an estate or interest in or lien or incumbrance upon real property, under a common source of title, whether holding as tenants in common, joint tenants, co-partners or in severalty, may unite in an action against any person claiming an adverse estate or interest in, or lien or incumbrance thereon, for the purpose of determining such adverse claim, or establishing such common source of title, or declaring the same to be held in trust, or of removing a cloud upon the same.

§ 5907. DESCRIPTION OF PROPERTY. COMPLAINT.] In an action for the determination of adverse claims, the property must be described in the complaint with such certainty as to enable an officer upon execution to identify it. In other respects the complaint, exclusive of the venue, title, subscription and verification, may be substantially in the following form, the blanks being properly filled. The plaintiff for cause of action shows to the court that he has an estate in, interest in, lien or incumbrance upon (as the case may be) the following described real property, situate in the above named county and state, to-wit:.....

That the defendants claimed certain estates or interests in or liens or incumbrances (as the case may be) upon the same, adverse to plaintiff. (Here allege the facts concerning use and occupation and value thereof, and any property wasted or removed and the value thereof, if pertinent.)

Wherefore, plaintiff prays. (1.) That the defendants be required to set forth all their adverse claims to the property above described, and that the validity, superiority and priority thereof be determined: (2) That the same be adjudged null and void, and that they be decreed to have no estate or interest in, or lien or incumbrance upon said property: (3) That this title be quieted as to such claim, and that defendants be forever debarred and enjoined from further asserting the same: (4) That he recover possession of the premises described, (if possession is desired:) (5) That he recover..... dollars as the value of the use and occupation and value of property wasted and removed therefrom: (6) That he have such other general relief as may be just, together with costs and disbursements.

§ 5908. JOINDER OF DEFENDANTS.] In an action to determine adverse claims all persons appearing of record to have estates or interests in, or liens or incumbrances upon the property, and all persons in possession may be joined as defendant and all others may be joined by inserting in the title of the action the following: "All other persons unknown claiming any estate or interest in, or lien or incumbrance upon the property described in the complaint, and their unknown heirs."

§ 5909. UNKNOWN PARTIES. HEIRS.] All persons having an estate or interest in, or lien or incumbrance upon the property involved in the estate, though not appearing of record to have such claim, and all heirs of any known or unknown defendants who may be deceased, may be proceeded against as persons unknown and heirs, and any order, judgment and decree shall be valid and binding on such unknown parties and heirs, whether they be of age or minors. And service of summons may be had upon all such unknown persons and heirs defendant, by publication, in the manner provided in Section 5254, Revised Codes of 1899, and sub-division 3 thereof. And the action shall proceed against such unknown person and heirs in the same manner as against the defendants who are named upon whom service is made by publication: And any such unknown person or heirs who have any estate

or interest in, or lien or incumbrance upon the property in controversy at the time of the commencement of the action, duly served as aforesaid, shall be bound and concluded by the judgment in such case, as effectually as if the action were brought against such defendants by name, and service of the summons obtained by publication.

§ 5910. ANSWER. COUNTERCLAIM.] In an action to determine adverse claims a defendant in his answer may deny that the plaintiff has the estate, interests, lien or incumbrance alleged in the complaint coupled with allegations setting forth fully and particularly the origin, nature and extent of his own claim to the property, and if such defendant claim a lien the original amount secured thereby and the date of the same, and the sum remaining due thereon, also whether the same has been secured in any other way or not, and if so secured, the nature and extent of such security; or he may likewise set forth his rights in the property as a counterclaim and demand affirmative relief against the plaintiff and any co-defendant; and in such case he may also set forth a counterclaim and recovery from plaintiff or a co-defendant for permanent improvements made by him or those under whom he claims, holding under color of title in good faith adversely to the plaintiff or co-defendant against whom he seeks a recovery; such counterclaim is set forth among other things the value of the land aside from the improvements thereon, and as accurately and practicable the improvements upon the land and the value thereof; and in such case he may also set forth as a counterclaim his demand for recovery of the value of the use and occupation of the premises and value of property wasted or removed therefrom, in the same manner as provided by Section 5905. The answer shall be deemed served on co-defendants by filing the same in the office of the clerk of court of the county where the action is pending at any time within thirty days after the service of summons on such defendant is complete. Where affirmative relief is demanded against co-defendants the allegations constituting counterclaims shall be deemed controverted by all the parties, as upon a direct denial or avoidance, as the case may require, without further pleading.

§ 5911. REPLY. BETTERMENTS BY PLAINTIFF.] No reply shall be required on the part of plaintiff except that when he has made permanent improvements on the property in good faith while in possession under color of title, he may recover a reasonable value thereof as against the defendant recovering the property, provided a reply alleging the facts and stating particularly the value of such improvements, the value of the property, and demanding appropriate relief, be served on such defendant and filed with the clerk within twenty days after the service of his answer.

§ 5912. TRIAL. FINDINGS. POSSESSION. COSTS.] The plaintiff or any defendant who has answered may bring the case on for trial by serving all other parties who have appeared with notice of trial. A defendant interposing a counterclaim, shall for purposes of trial, be deemed plaintiff, and the plaintiff and co-defendants against whom

relief is sought, shall be deemed defendants as to him. The court in its decision shall find the nature and extent of the claim asserted by the various parties, and determine the validity, superiority and priority of the same, any defendant in default for want of an answer, or not appearing at the trial, or a plaintiff not appearing at the trial, shall be adjudged to have no estate or interest in, or lien or incumbrance upon the property; and he shall also be adjudged to pay the amount demanded against him in any counterclaim or reply for the use and occupation of the premises, property removed therefrom, and waste committed, except in the case of a defendant served by publication and not appearing. If any counterclaim for improvements has been urged against one recovering property the value of such improvements thereof and the value of the land aside from the improvements, shall be specifically found. There shall be, likewise, findings on all other counterclaims urged at the trial. If possession of the premises is demanded by the plaintiff or by any defendant asking for affirmative relief, such possession shall be awarded to the party asking for possession who has the paramount claim to the property, and he may thereupon have a writ for possession as against all other parties to the action. Costs shall be awarded to the prevailing parties against each adversary in the action by the court, except that no costs shall be allowed against the defendant not appearing.

§ 5912a. JUDGMENT. WHEN RIGHT FAILS AFTER ACTION BROUGHT.] In an action for the recovery of real property, when a party shows a right to recover at the time when the action was commenced, but it appears that his right has terminated during the pendency of the action, the finding and judgment must be according to the fact, and he may recover whatever he may show himself entitled to up to the time that his right terminated.

§ 5912b. ADJUSTMENT OF CROSS JUDGMENTS.] If the decision of the court is in favor of one party for the recovery of the real property, and in favor of another for improvements, the former shall have the option for sixty days after receiving notice that the findings are filed, obtain the value of such improvements less such sums as may be found due for use and occupation and waste; or of taking judgment against him for the value of the land aside from the improvements, as determined by the findings, and such sums as may be found due for use and occupation and waste. If said option is not exercised in writing by said party or his attorney for him, and filed with the clerk within sixty days, the other party may thereupon exercise the option for him in like manner. If the party entitled to the possession of the property received in lieu thereof a money judgment, the other party may be subrogated to all the former's rights therein, including all the relief he would otherwise be entitled to under the findings; and judgment shall thereupon be entered accordingly. But until payment is made by the party recovering the land or tender and deposit in the office of the clerk of the court in which the action is pending, no writ for the possession of the property shall be issued.

§ 5913. WHEN DEFENDANT PERMITTED TO DEFEND.] • A defendant in an action to determine adverse claim, proceed against by name or as an unknown party or heir, or his representative on application and sufficient cause shown at any time before trial, must be allowed to defend on such terms as may be just; and any such defendants or his representatives upon good cause shown, and on such terms as may be just, may be allowed to defend after trial and within one year after the rendition of judgment therein, but not otherwise.

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

§ 3. EMERGENCY.] Whereas, an emergency exists in that there is no adequate law on the subject matter of this action, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 13, 1901.

APPROPRIATIONS.

CHAPTER 6.

[H. B. 74.]

TO MEET DEFICIENCY IN SALARY.

AN ACT to Appropriate Money to Meet a Deficiency in the Salary and Expenses of the Office of Assistant Dairy and Food Commissioner.

DAIRY AND FOOD COMMISSIONER. SALARY INCREASED.] Whereas, it was construed that section 1687, Revised Codes of North Dakota, 1899, appropriated the sum of two thousand dollars for the expenses of the office of the assistant dairy and food commissioner and holding farmers' institutes, in addition to twelve hundred dollars for salary, and

Whereas, the said assistant dairy and food commissioner has conducted the office and scheduled a certain number of farmers' institutes with that understanding, and

Whereas, it is now held that such appropriation is only two thousand dollars in its entirety, therefore,

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

§ 1. APPROPRIATION.] That the sum of twelve hundred dollars is hereby appropriated to pay the salary and expenses of the office of the assistant dairy and food commissioner, and the holding of farmers' institutes until June 30, 1901.

§ 2. EMERGENCY.] Whereas, an emergency exists as above stated,

and there are no funds appropriated to meet above expense; therefore this act shall take effect and be enforced from and after its passage and approval.

Approved March 7, 1901.

CHAPTER 7.

[S. B. 85.]

APPROPRIATION FOR CLERK HIRE.

“AN ACT to Provide an Appropriation for Increased Clerical Work in the Office of the State Treasurer.”

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury not already appropriated, the sum of two thousand dollars for additional clerical assistance in the office of the state treasurer, said sum to be paid by the state auditor on monthly vouchers, when approved by the state auditing board.

Approved March 15, 1901.

CHAPTER 8.

[S. B. 27.]

AGRICULTURAL AND GEOLOGICAL SURVEY.

AN ACT Authorizing the Board of Trustees of the North Dakota Agricultural College to Co-Operate with the United States Federal Surveys, Organized Under the Department of the Interior of the United States, in Completing a Topographic, Agricultural and Geological Survey as Related to Agriculture, Together with an Economic Map of North Dakota and Making an Appropriation Therefor.

APPROPRIATION FOR SURVEY AND MAPS.] Whereas, North Dakota is a young, undeveloped and sparsely settled state, rapidly growing in wealth and population, as her resources are developed and her industrial advantages are made known to homeseekers and investors; and

Whereas, there is an urgent demand made, on the state executive department and upon those engaged in promoting the agricultural and natural resources of the state, by the citizens of North Dakota, as well as by home seekers and investors, for accurate information regarding the specific character of the soil, climate, rainfall, water supply, both surface and artesian, and the other resources; and

Whereas, the results of such a survey have become highly essential to the successful direction of agriculture, and such survey is inseparable from the work demanded of the agricultural experiment station, where fully equipped laboratories are maintained and where investigations and analysis of the natural products of the state are now conducted;

Now, therefore, as a measure of public economy, in securing the federal aid in conducting these investigations, and as a means to promote the agricultural and other scientific industries of the state, and to speedily secure an economic and agricultural survey and map of North Dakota.

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

§ 1. AGRICULTURAL COLLEGE BOARD CO-OPERATE.] The board of trustees of the agricultural college of the state of North Dakota is hereby authorized to co-operate with the directors of the United States federal surveys and to accept the co-operation of the United States with this state in executing a topographic, economic and agricultural survey and map of North Dakota, which is hereby authorized to be made; and the said board of trustees shall have the power to arrange with said directors, or other authorized representatives of the United States government surveys, concerning the details of said work, the methods of its execution, and the order in part of time in which these surveys and maps of the different parts of the state shall be completed; provided, that the said directors of the United States government survey, thus co-operating with the state of North Dakota, shall agree to expend on the part of the United States upon said work a sum equal to that appropriated by the state of North Dakota for that purpose.

§ 2. MAPS UNIFORM WITH U. S. MAPS.] In arranging the details heretofore referred to, it is expected that the topographic maps resulting from this survey shall be similar in general design to the Fargo and Casselton sheets already made by the United States geological survey; that they shall show the location of all roads, railroads, streams, lakes and rivers, and shall contain certain lines showing the elevation and depression for every twenty feet of vertical interval of the surface of the county; and that the resulting maps shall recognize the co-operation of the state of North Dakota.

§ 3. MAKE AN ECONOMIC SURVEY.] Following the completion of the topographic maps, or as rapidly as deemed expedient, an economic survey shall be made, including a complete account of all economic resources of agricultural importance, including the character and value of soil for agricultural purposes, the nature and extent of water supplies, both surface and artesian, together with the analysis of soils, waters, etc., including also the collecting and tabulating of meteorological data necessary in explaining climatic variations, and such other investigations as naturally belong to an economic survey.

§ 4. STATE DIRECTOR TO COLLECT SAMPLES.] It shall be the duty of the state director of this survey to collect or cause to be collected

samples of all rocks, soils, coals, clays, minerals, fossils, plants, woods, skins and skeletons of native animals, and such other products of economic or scientific interest discovered during this survey, which properly secured and labeled, shall be placed on exhibition in the museum of the North Dakota agricultural college.

§ 5. ARRANGE TO PUBLISH MAPS.] The state director of this survey shall arrange with the directors of the government surveys for the publication of economic maps resulting from this survey, which shall be similar in design to, and uniform with the publication now made by these surveys, accompanied by [a] the written description of the formations and economic resources, which shall constitute a report, embodying and setting forth all useful information developed during these investigations.

§ 6. PUBLISH REPORTS.] There shall be published from time to time, as bulletins of the North Dakota experiment station, preliminary reports of this survey, as the work progresses, showing the results of the survey and investigations conducted, together with preliminary maps, showing the areas covered, and these preliminary reports shall be sent gratis to all citizens of North Dakota making application.

§ 7. MAKE BIENNIAL REPORT TO GOVERNOR.] It shall be the duty of the said board of trustees, through the state director of this survey, to make on or before the second Tuesday of December of each year, immediately preceding the regular sessions of the legislative assembly of North Dakota, a biennial report to the governor, showing the progress of the survey, accompanied by copies of the maps completed and results accomplished, together with a report of all moneys received and expended; and the governor shall lay this report before the legislative assembly.

§ 8. STATE DIRECTOR.] The professor of geology of the North Dakota agricultural college shall act, under the direction of the board of trustees of said institution, as state director of this survey.

§ 9. APPROPRIATION.] There is hereby appropriated out of the money of the state treasury, not otherwise appropriated, the sum of five hundred dollars (\$500) annually, which shall be paid by the state treasurer upon a draft from the secretary of the board of trustees, having in control this survey.

§ 10. NAME.] This survey shall be known as the Agricultural College survey of North Dakota.

§ 11. NOT CONFLICTING.] This act is not to be construed as conflicting in any manner with or repealing the geological survey of North Dakota already established at the State University.

§ 12. BELONG TO THE STATE.] Any lands belonging to the state, or lands known as school lands and public institution lands, in which is discovered any valuable deposit of coal or minerals of any kind, clay, gravel or stone shall be and remain the property of the state until provision for the sale or leasing thereof is especially provided for by law.

Approved March 14, 1901.

CHAPTER 9.

[S. B. 121.]

EXECUTIVE MANSION.

AN ACT Making an Appropriation for Repairing and Furnishing the Executive Mansion.

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

§ 1. APPROPRIATION. EXECUTIVE MANSION.] That there is hereby appropriated, out of the moneys in the general fund of the state treasury, not otherwise appropriated, the sum of \$500.00 for repairing and furnishing the executive mansion.

§ 2. EMERGENCY.] Whereas, an emergency exists in this, that the executive mansion is in immediate need of repair, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 6, 1901.

CHAPTER 10.

[S. B. 53.]

APPROPRIATION FOR DEFICIT IN FUEL ACCOUNT.

AN ACT Making an Appropriation for Deficit in Fuel Account at the North Dakota Hospital for the Insane.

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

§ 1. FUEL ACCOUNT DEFICIT. INSANE HOSPITAL.] Whereas, a deficiency exists in the amount appropriated for fuel at the North Dakota hospital for the insane at Jamestown; such deficiency being caused by the erection of a new ward, laundry building and congregate dining room, thereby increasing the radiation to an extent equal to 22½ per cent over the space heated prior to the erection of said buildings, which will cause a deficiency to the extent of \$6,000.00 to April 1, 1901.

§ 2. APPROPRIATION.] There is hereby appropriated out of the funds of the state treasury, not otherwise appropriated, the sum of \$6,000.00 for the purpose of relieving said deficiency.

§ 3. EMERGENCY. Whereas, an emergency exists in that the amount hereby appropriated is needed for immediate use;

Therefore this act shall take effect and be in force from and after its passage.

Approved March 12, 1901.

CHAPTER 11.

[S. B. 83.]

APPROPRIATION FOR DEAF AND DUMB ASYLUM.

AN ACT for the Maintenance and Erection of Additions to the Deaf and Dumb Asylum of North Dakota from March 1st, 1901, to December 31st, 1901, and Making an Appropriation Therefor.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any money in the state treasury, not otherwise appropriated, the sum of seventeen thousand five hundred (\$17,500.00) dollars to pay the current and contingent expenses and provide for necessary additions to the deaf and dumb asylum at Devils Lake, from March 1st, 1901, to December 31st, 1901, as follows:

Maintenance	\$ 4,500 00
Salaries	4,000 00
Wages	2,100 00
Fuel and lights	1,100 00
Furniture and bedding	300 00
Books and school supplies	150 00
Drugs and medical attendance	250 00
Machinery and stock	600 00
Feed and [for] stock	300 00
Incidental expenses and repairs	700 00
Additions	3,500 00
	<hr/>
Total	\$17,500 00

§ 2. EMERGENCY.] An emergency existing by reason of the fact that there will be no money in the hands of the state treasurer for the payment of the current expenses of this institution after March 1st, 1901, this act shall be in force immediately upon its passage and approval.

Approved March 14, 1901.

CHAPTER 12.

[S. B. 59.]

APPROPRIATION FOR HOSPITAL FOR THE INSANE.

AN ACT to Provide an Appropriation for the Current and Contingent Expenses for the Hospital for the Insane at Jamestown, North Dakota.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any money in the state treasury, not otherwise appropriated, for the purpose of paying the current and contingent expenses of the hospital for the insane at Jamestown for the fiscal years 1901 and 1902, the sum of one hundred thirty-three thousand one hundred dollars (\$133,100) or so much thereof as may be necessary, as follows:

Maintenance	\$ 60,000 00
Fuel	22,000 00
Employes' wages	30,000 00
Drugs and medicines	1,400 00
Return of patients and burial of dead	1,200 00
Beds, bedding and furniture	1,000 00
Paints and oils	350 00
Library and amusements	300 00
Repairs and incidentals	1,500 00
Farm machinery	300 00
Electric supplies and repairs	200 00
Engine room supplies	200 00
Blacksmith shop supplies	200 00
Plumbing and repairs to steam and water supply.....	200 00
Laundry repairs	150 00
Balance on 67 acres of land and interest on the same....	1,300 00
Salaries of resident officers	12,800 00
Total	\$133,100 00

§ 2. EMERGENCY.] An emergency exists in this that the fiscal year for which this appropriation is made, shall not begin before July 1st, and the funds hereby appropriated will be needed before that time; therefore, this act shall take effect from and after its passage and approval.

Approved March 14, 1901.

CHAPTER 13.

[S. B. 151.]

APPROPRIATION FOR SELLING SCHOOL LANDS.

AN ACT to appropriate money to pay the annual expense of appraising, advertising, and selling common school and institution lands.

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

§ 1. APPROPRIATION.] There is hereby annually appropriated out of any funds in the treasury not otherwise appropriated, the sum of four thousand (\$4,000) dollars, or so much thereof as may be found necessary, for the purpose of paying the expense of appraising, advertising and selling common school, institution or other lands, under the control of the board of university and school lands.

§ 2. EMERGENCY.] Whereas, an emergency exists inasmuch as there are not sufficient funds available to pay for the appraising, advertising and selling of said lands, and no provision for such expense for coming years; therefore this bill shall take effect and be in force from and after its passage and approval.

Approved March 14, 1901.

CHAPTER 14.
[S. B. 30.]

APPROPRIATION FOR THE STATE PENITENTIARY.

“AN ACT Making Appropriations for the Current and Contingent Expenses of the State Penitentiary and for Making Permanent Improvements and Additions Thereto.”

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 so much thereof as may be necessary, out of the 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 permanent improvements and additions thereto, as follows, viz.:

Warden's salary	\$ 3,600 00
Deputy warden's salary	2,000 00
Bookkeeper and assistant gatekeeper	1,200 00
Matron and housekeeper	800 00
Chaplains	500 00
Guards and employes	16,000 00
Maintenance	28,000 00
Heating and lighting	8,000 00
Repairs and improvements	1,500 00
Incidentals	1,000 00
Physician and medicines	2,000 00
Transportation, etc., discharged inmates	3,500 00
Clothing of inmates	3,500 00
Bedding	500 00
Books and stationery	500 00
Water supply	3,000 00
Building yard wall	8,000 00
Extending sewerage and water systems and moving crematory plant	3,000 00

Provided, that, out of the above amount the following sums in each of the funds hereinafter named may be used to cover the deficiencies in such funds, respectively, for the past two years, viz.: Guards and employes, \$100; maintenance, \$1,000; heating and lighting, \$650; physician and medicine, \$250; transportation, clothing, etc., discharged inmates, \$500. Total, \$2,500.

§ 2. EMERGENCY.] An emergency exists in this that there is no provision made for the payment of the expenses of the penitentiary after March, 1901; therefore this act shall take effect from and after its passage and approval.

Approved March 14, 1901.

CHAPTER 15.

[S. B. 43.]

APPROPRIATION FOR STATE NORMAL SCHOOL.

AN ACT Providing for an Appropriation for the Maintenance and Improvement of the State Normal School at Valley City, for That Portion of the Year 1901, Commencing March 1st and Ending December 31st.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any funds in the state treasury, not otherwise appropriated, for the maintenance and improvement of the state Normal School at Valley City, for that portion of the year 1901, commencing March 1st and ending December 31st, the sum of fifteen thousand dollars, which said sum shall be paid in like manner as appropriations for other state institutions are paid.

§ 2. EMERGENCY.] Whereas, an emergency exists in that there is no appropriation for the maintenance of the Normal School at Valley City, N. D., for the period commencing March 1st, 1901, and ending June 30th, 1901, this act shall take effect immediately on its passage and approval.

Approved March 14, 1901.

CHAPTER 16.

[H. B. 177.]

PAN-AMERICAN EXPOSITION.

AN ACT to Make an Appropriation for the Collection, Arrangement and Display of the Products of the State of North Dakota at the Pan-American Exposition of 1901, and to Provide for the Expenses of the State Commissioners Thereof.

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

§ 1. PAN-AMERICAN EXPOSITION. APPROPRIATION FOR.] There is hereby appropriated the sum of ten thousand dollars, or so much thereof as may be necessary, out of any money in the state treasury not otherwise appropriated, to be used for the collection, arrangement and display of the products of the state of North Dakota at the Pan-American exposition of 1901, and to pay the actual expenses of the state commissioners necessarily incurred in the performance of their duties; Provided, that none of the money appropriated under this act shall be available or used if the exhibit of the state provided herein is open on the Sabbath day.

§ 2. EXPENSES. HOW PAID.] The expenses thus incurred under the provisions of this act shall be filed, audited and paid in the same manner as provided by law for the payment of expenses of all state officers.

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

Approved March 9, 1901.

CHAPTER 17.

[S. B. 75.]

APPROPRIATION SOLDIERS' HOME.

AN ACT Making Appropriation for the Current and Contingent Expenses of the Soldiers' Home Located at Lisbon, North Dakota, and for Making Permanent Improvements and Additions Thereto.

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 so much thereof as may be necessary, out of moneys in the state treasury, not otherwise appropriated, for the purpose of paying the current and contingent expenses of the soldiers' home located at Lisbon, North Dakota, and for the purpose of making permanent improvements and additions, thereto, as follows:

Current expenses	\$2,200 00
Subsistence	6,200 00
Clothing	800 00
Household	1,900 00
Hospital	2,200 00
Transportation	200 00
Repairs	300 00
Farm	1,000 00
Construction	5,500 00

§ 2. EMERGENCY.] An emergency exists in this that there is no provision made for the payment of the expenses of the soldiers' home after March 1, 1901, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 14, 1901.

CHAPTER 18.

[S. B. 162.]

APPROPRIATION FOR AGRICULTURAL COLLEGE.

AN ACT Providing for the Payment of the Current and Contingent Expenses of the Agricultural College at Fargo for That Portion of the Year 1901 Commencing March 1st and Ending December 31st.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any money in the state treasury, not otherwise appropriated, for the payment of the current and contingent expenses of the Agricultural College at Fargo, for that portion of the year 1901 commencing March 1st and ending December 31st as follows :

For library, furniture and fixtures	\$ 250 00
For librarian	650 00
For printing and stationery	850 00
For salaries of engineers, watchmen and janitors	2,500 00
For fuel	3,500 00
For scientific and miscellaneous books for library.....	700 00
Expenses incurred on drill hall and gymnasium.....	2,000 00
For miscellaneous expenses	7,300 00
For experiments at the branch station in LaMoure County..	250 00

§ 2. EMERGENCY.] Whereas, an emergency exists in that a portion of the money hereby appropriated is required for immediate use, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 14, 1901.

CHAPTER 19.

[S. B. 67.]

APPROPRIATIONS STATE NORMAL SCHOOL.

AN ACT Providing for an Appropriation for the Maintenance and Improvement of the State Normal School at Mayville, North Dakota.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of the funds of the state treasury, not otherwise appropriated, the sum of fifteen thousand dollars (\$15,000) for the maintenance and improvement of the State Normal School at Mayville, North Dakota, for the period beginning March 1st, 1901, and ending December 31st, 1901.

For plumbing, fire protection and water closets	\$ 750 00
For electric light furnishings	500 00
For repairs	500 00
For library	500 00
For chemicals and scientific apparatus	100 00
For printing and postage	250 00
For fuel and light	1,500 00
For janitor service	600 00
For teachers' salaries	9,550 00
For incidental expenses	750 00

§ 2. EMERGENCY.] Whereas an emergency exists that there is no appropriation for the maintenance of the Normal School at Mayville for the period commencing March the first, 1901, and ending December the first [thirty-first], 1901, this act shall take effect immediately on its passage and approval.

Approved March 14, 1901.

CHAPTER 20.

[S. B. 81.]

APPROPRIATION INDUSTRIAL SCHOOL.

AN ACT to Provide for the Maintenance of the Industrial School and School for Manual Training, Located at Ellendale, North Dakota, and for Making Necessary Improvements, and Making an Appropriation Therefor.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of moneys in the state treasury, not otherwise appropriated, the sum of fourteen thousand (\$14,000) dollars for the maintenance and improvement of the industrial school and school for manual training for two years, beginning April 1, 1901, and ending March 31, 1903, viz.:

For salaries faculty	\$ 7,000 00
For fuel	1,000 00
For incidental expenses	500 00
For janitor and engineer	900 00
For materials and furnishing	500 00
For physical laboratory	550 00
For water supply	50 00
For general library	200 00
For improvements of grounds	50 00
For lights	150 00
For completion of equipment in manual training	1,400 00
In domestic science	900 00
In fine art	800 00

Total

\$14,000 00

§ 2. EMERGENCY.] Whereas, an emergency exists in that a portion of the money hereby appropriated is needed for immediate use, therefore this act shall take effect from and after its passage and approval.

Approved March 14, 1901.

CHAPTER 21.

[S. B. 143.]

APPROPRIATION FOR STATE BUILDINGS.

AN ACT to Amend Section 338 of the Revised Codes of 1899, Providing For an Appropriation For Supplies for the Capitol Building, Executive Mansion and the Public Grounds and Parks Connected Therewith and For Necessary Repairs Upon the Capitol Building.

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

§ 1. AMENDMENT.] Section 338 of the Revised Codes of 1899 is hereby amended to read as follows:

§ 338. SUPPLIES FOR PUBLIC OFFICES. APPROPRIATIONS.] The board of trustees of public property are authorized and empowered to provide all necessary furniture, fuel, lights, stationary, postage, express, freight, drayage and all other necessary supplies for the state offices and executive mansion and the public grounds and parks connected therewith and to make all necessary repairs upon the capitol building and there is hereby annually appropriated out of any money in the state treasury, not otherwise appropriated, the sum of sixteen thousand dollars, or so much thereof as may be necessary to carry out the provisions of this section, and the state auditor is empowered to draw his warrant for such sums as shall be found due on account of claims or accounts against such appropriation upon approval thereof by the governor or such other board of audit as may be provided by law, and upon approval the state treasurer is hereby directed to pay such warrants from the general fund of the state.

§ 2. EMERGENCY.] Whereas, by written communication, the board of trustees of public property have furnished an estimate of the amount of appropriation required for the ensuing two years, which said amount is different from the present appropriation, now therefore, an emergency exists and this act shall be in force and effect from and after its passage and approval.

Approved March 6, 1901.

CHAPTER 22.

[S. B. 172.]

APPROPRIATION FOR IMMIGRATION.

AN ACT Repealing Section 131a of the Revised Codes, 1899, Making an Appropriation to Promote Immigration.

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

§ 1. REPEAL.] Section 131a, Revised Codes, 1899, is hereby repealed.

Approved March 6, 1901.

ATTORNEYS.

CHAPTER 23.

[S. B. 20.]

ADMISSION TO THE BAR OF THE STATE.

AN ACT to Provide for the Admission of Graduates From the Law Department of the University of North Dakota to the Bar of This State.

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

§ 1. STATE UNIVERSITY. GRADUATES ADMITTED TO BAR.] That the graduates from the law department of the university of North Dakota shall, upon presentation of their diploma, from said university, to the supreme court of this state, any time within two (2) years from the date of such diploma, be entitled to a certificate of admission to the bar of this state without further examination, and said court shall thereupon enter an order authorizing and directing the clerk of said court to issue to such graduates a certificate of admission to the bar, upon proof, satisfactory to said court, that said graduates have studied in said law department for two full school years, or have studied in said law department for one full school year and in some other reputable law school for one full school year for [of] thirty-six weeks, or in the law office of some attorney for one full year of fifty-two weeks in addition to the period of study in the law department of the University of North Dakota, that he has passed satisfactory examination in all the subjects required to be studied by the faculty of the law department, that he is a citizen of the United States and a resident of this state, and intends practicing law in this state, that he is twenty-one years of age, of good moral character, and upon his subscribing [to] the oath provided by statutes or the rules of said court.

§ 2. REFERRED TO THE SUPREME COURT.] The final examination papers shall be referred to the supreme court before and after such final examination, and if such papers and examination taken thereunder shall be approved by such court, the applicant shall be admitted to the bar as herein provided without further examination.

Approved March 13, 1901.

ATTORNEY GENERAL.

CHAPTER 24.

[S. B. 144.]

ATTORNEY GENERAL.

AN ACT to Amend Section 119 of the Revised Codes of 1899, Relating to the Duties of the Attorney General.

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

§ 1. AMENDMENT.[That section 119 of the Revised Codes of the State of North Dakota be amended to read as follows:

§ 119. ATTORNEY GENERAL. DUTIES OF.] The duties of the attorney general shall be:

1. To appear for and represent the 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 favor of, or for the use of the state, which may be necessary in the execution of the duties of any state officer.

3. To appear and 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 interests of the 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 on 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 in which the state is interested.

7. To give written opinions, when requested by either branch of the legislative assembly, upon legal questions.

8. To enforce the proper application of funds appropriated to the public institutions of the 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, or his assistants, in behalf of this state or its officers, and of all proceedings had in relation thereto, including a record of all actions wherein the state is a party, or is interested, prosecuted by the state's attorneys of the several counties, and reported to him, as provided in section 1979 of this code, 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 duties which may from time to time be required by law.

§ 2. EMERGENCY.] Whereas, there is now no law requiring the attorney general to keep a record of actions in which the state is a party or interested, prosecuted by the state's attorneys of the several counties, therefore an emergency exists and this act shall be in force from and after its passage and approval.

Approved March 11, 1901.

ATTORNEYS' FEES.

CHAPTER 25.

[H. B. 97]

ATTORNEYS' FEES IN DRAINAGE PROCEEDINGS.

AN ACT to Provide for the Allowance and Taxation of Costs and Additional Attorneys' Fees Against the Defendants in Actions to Enjoin Drainage Proceedings, or the Levy and Collection of Taxes and Assessments Therefor.

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

§ 1. ATTORNEYS' FEES IN DRAINAGE PROCEEDINGS.] In any action hereafter commenced or now pending, for the purpose of enjoining, vacating or setting aside any proceeding for the construction of a drain under the provisions of this chapter, or for the purpose of enjoining or declaring void any assessment levied, or ordered to be levied, to pay for the location or construction of any such drain, or for the purpose of enjoining or preventing the collection of any tax or assessment for

the location or construction of any such drain, commenced after the list of assessments for said drain has been filed in the office of the county auditor as provided by section 1457, if said action is dismissed, or if the relief demanded therein is denied, there shall be allowed to the defendants therein a reasonable amount to be determined by the court, as attorneys' fees in said action, to be taxed against the plaintiff, in addition to the costs and disbursements now allowed by law.

§ 2. EMERGENCY.] Whereas, an emergency exists, in that actions to enjoin the levy and collection of drainage assessments are now pending, and that there are no funds out of which costs and attorneys' fees incurred in the defense of such actions can be paid, therefore an emergency exists, and this act shall take effect and be in force from and after its passage and approval.

Approved March 8, 1901.

ASSESSMENT.

CHAPTER 26.

[Sub. for S. B. 154.]

ASSESSMENT OF EXPRESS AND OTHER COMPANIES.

AN ACT Providing for the Assessment of Express Companies, Telegraph, Telephone, Freight Line and Equipment Companies.

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

§ 1. EXPRESS, TELEGRAPH, TELEPHONE, FREIGHT LINE AND EQUIPMENT COMPANIES. ASSESSMENT OF.] The state board of equalization shall at its annual meeting in August in each year assess at its actual value the franchise and all property within the state of all express companies, freight line companies, car equipment companies, sleeping car companies, dining car companies, telegraph or telephone companies. To enable said board to make a correct valuation of such franchises and property, it shall have access to all reports of such corporations which may be on file in any public office of the state, and they shall have power to compel and require every such company, on reasonable notice, to report to them a full statement of the property and mileage operated by it within this state, and shall have power to summon 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 such franchises and property the board 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. It shall cause a record to be made of the estimated value placed upon each of the items which go to make up the aggregate valuation of such assessments.

§ 2. VALUATION. HOW APPORTIONED.] 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. Such valuation per mile shall be apportioned to each county according to the number of miles of such line contained in such county.

§ 3. MILES OF LINE AND VALUATION. STATE AUDITOR SHALL CERTIFY.] The state auditor shall at the time of certifying the equalized value of each organized county to the county auditor, also certifying [certify to] the number of miles of line operated by each of the companies before mentioned contained in said county and the valuation per mile as determined by the state board of equalization, and the county auditor of such county shall apportion such valuation to the cities, towns, villages, townships and districts through which such lines run according to the number of miles contained in each, as a part of the valuation of such city, town, village, township and district for the purpose of taxation, and the same shall be taxed as personal property is taxed in each county.

§ 4. VALUATION IN UNORGANIZED COUNTIES. TAXED FOR STATE PURPOSES ONLY.] The valuation so apportioned to unorganized counties 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 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 such tax in the same manner as county treasurers are authorized by law to collect personal property taxes.

Approved March 9, 1901.

ASSESSORS.

CHAPTER 27.

[S. B. 219.]

ASSESSORS' SUPPLIES AND DATE OF MEETING.

AN ACT to Amend Section 1208 of the Revised Codes of North Dakota, Relating to the Duties of the County Auditor in Furnishing Supplies to Assessors and the Date of Meeting of Such Assessors.

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

§ 1. AMENDMENT.] That section 1208 of the Revised Codes of North Dakota be amended so as to read as follows:

§ 1208. COUNTY AUDITOR TO FURNISH BOOKS, ETC. LIST OF REAL PROPERTY. LIST OF MORTGAGES. MEETING OF ASSESSORS.] The county auditor shall annually provide the necessary 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 name of owners, if to him known, and if unknown so state it) the number of acres and the lots and parts of lots or blocks included in each description of property. The assessment books and blanks shall be in readiness for delivery to the assessors on the second Saturday in 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 in reference to the performance of their duties.

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

§ 3. EMERGENCY.] Whereas, an emergency exists wherein an election will be held before July 1st, this act shall take effect and be in force from and after its passage and approval.

Approved March 7, 1901.

CHAPTER 28.
[S. B. 99.]

ASSESSOR'S STATEMENT.

AN ACT to Amend Section 1219 of the 1899 Revised Codes of North Dakota, Relating to Assessor's Statement and Return to Auditor.

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

§ 1. AMENDMENT.] That section 1219 of the 1899 Revised Codes of North Dakota be amended to read as follows:

§ 1219. ASSESSOR'S STATEMENT AND RETURN TO AUDITOR.] The assessor shall add and note the amount of each column in his assessment books after making the corrections made by the town board of review. He 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 and set down under the respective headings the total amount of the several columns, and on or before the last Monday of June 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; except in cities having charters, the assessor's returns shall be made to the county auditor not later than July 10th. Such returns shall be verified by his affidavit 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 real property (or personal property, as the case may be) subject to taxation inso 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 herewih are correct as I verily believe.

.....Assessor.

Subscribed and sworn to before me this.....day of19..

Auditor ofCounty.

Approved Feb. 27, 1901.

BANKS.

CHAPTER 29.

[S. B. 163.]

AN ACT to Amend Section 3231, Revised Codes, Relating to Capital of Banks.

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

§ 1. AMENDMENT.] That section 3231 of the Revised Codes, be, and the same is hereby amended so as to read as follows:

§ 1. CAPITAL PROPORTIONATE TO INHABITANTS.] Hereafter no association shall be organized under this chapter in cities, towns or villages containing one thousand inhabitants or less with a capital of less than ten thousand dollars; in cities, towns or villages of over one thousand and not exceeding one thousand five hundred inhabitants with a capital less than fifteen thousand dollars; in cities, towns or villages of over one thousand five hundred and not exceeding two thousand inhabitants with a capital less than twenty thousand dollars; in cities, towns or villages of over two thousand and not exceeding two thousand five hundred inhabitants with a capital less than thirty thousand dollars; in cities, towns or villages of over two thousand five hundred and not exceeding three thousand inhabitants with a capital less than forty thousand dollars, and in cities, towns or villages of over three thousand inhabitants with a capital less than fifty thousand dollars. At least fifty 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 by installments of not less than ten per cent of the capital stock, 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 of the president or cashier of the association, a copy of which shall be filed by such bank with the state examiner. For the purpose of this section the population of the city, town or village shall be determined by multiplying by four the total vote cast for member of congress at the last general election held in such city, town or village, the result shall be taken as the population of such city, town or village.

Approved March 11, 1901.

BARBERS.

CHAPTER 30.

[H. B. 32.]

BARBERS' LICENSE.

AN ACT to Regulate the Practice of Barbering, the Licensing of Persons to Carry on Such Practice, and to Insure the Better Education of Such Practitioners in the State of North Dakota.

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

§ 1. CERTIFICATE OF REGISTRATION REQUIRED.] It shall be unlawful for any person to follow the occupation of barber in this state unless he shall have first obtained a certificate of registration as provided in this act; provided, however, that nothing in this act contained shall apply to or affect any person who is now actually engaged in such occupation, except as hereinafter provided.

§ 2. BOARD OF EXAMINERS. HOW APPOINTED. BONDS.] A board of examiners to consist of three (3) persons is hereby created to carry out the purposes and enforce the provisions of this act. Said board shall be appointed by the governor, and each person appointed to act on said board must be a practical barber, who has been practicing his profession in the State of North Dakota for the past five (5) years.

Each member of the board shall serve for a term of two (2) years and until his successor is appointed and qualified, except in the case of the first board, whose members shall serve one (1), two (2) and three (3) years respectively, as specified in their appointment.

Each member of said board shall give a bond of five thousand (\$5,000) dollars with sureties to be approved by the secretary of state, conditioned for the faithful performance of his duties, and shall take the oath provided by law for public officers. Vacancies on said board caused by death, resignation or expiration of the term of any member thereof, shall be filled by appointment from the same class of persons to which the deceased or retiring member belonged.

§ 3. HOW ORGANIZED.] Said board shall elect a president, secretary and treasurer, and shall have its headquarters at the state capitol; shall have a common seal, and the secretary and president shall have power to administer oaths.

§ 4. COMPENSATION.] Each member of said board shall receive a compensation of three (\$3) dollars per day for actual service and ten (10) cents per mile for each mile actually traveled in attending the meeting of said board, which compensation shall be paid out of any moneys in the hands of the treasurer of said board; provided, that the

said compensation and mileage shall in no event be paid out of the state treasury.

§ 5. BIENNIAL REPORT.] Said board shall make a biennial report to the governor, which report shall contain a full statement of its receipts, and disbursements of the board of the preceding two (2) years, also a full statement of its doings and proceedings and such recommendations as to it may seem proper looking to the better carrying out of the intents and purposes of this act, which report shall not be printed except at the expense of the fund herein provided for.

Any moneys in the hands of the treasurer of the said board at the time of making such report shall be kept by him for the future maintenance of the board and to be disbursed by him upon warrants signed by the president and secretary of the said board.

§ 6. EXAMINATIONS FOUR TIMES PER YEAR.] Said board shall hold public examinations at least four (4) times in each year in at least four (4) different cities in this state, at such times and places as it may determine, notice of such meetings to be given by a publication thereof at least ten (10) days before such meetings, in a newspaper published in the county where such meeting is to be held.

§ 7. AFFIDAVIT OF RESIDENCE AND NAME. FEES.] Every person now engaged in the occupation of barber in this state shall, within ninety (90) days after the taking effect of this act, file with the secretary of said board an affidavit setting forth his name, residence and length of time during which, and the place where he has practiced such occupation, and shall pay the treasurer of said board two (\$2) dollars and a certificate of registration entitling him to practice said occupation shall thereupon be issued to him.

§ 8. REGISTRATION. HOW OBTAINED. FEE.] Any person desiring to obtain a certificate of registration under this act shall make application to said board therefor and shall pay to the treasurer of said board an examination fee of five (\$5) dollars, and shall present himself at the next regular meeting of the board for the examination of applicants, whereupon said board, shall proceed to examine such persons, under such rules and regulations as may be by said board prescribed, which rules and regulations, shall require that said applicant shall present to said board a certificate from some reputable physician designated by said board to the effect that said applicant is free from any contagious or infectious disease, and being satisfied that he is above the age of nineteen (19) years, of good moral character, free from contagious or infectious diseases, has either (a) studied the trade for three years as an apprentice under a qualified and practicing barber or (b) studied the trade for at least three years in a properly appointed and conducted barber school under the instructions of a competent barber, or (c) practiced the trade in another state for at least three (3) years, and is possessed of the requisite skill in said trade to properly perform all the duties thereof, including his ability in the preparation of tools, shaving, hair cutting, and all the duties and services incident thereto, and is possessed of sufficient

knowledge concerning the common diseases of the face and skin to avoid the aggravation and spreading thereof in the practice of said trade; his name shall be entered by the board in the register hereafter provided for, and a certificate of registration shall be issued to him, authorizing him to practice said trade in this state; provided, that whenever it appears that applicant has acquired his knowledge of said trade in a barber school, the board shall be judges of whether said barber school, is properly appointed and conducted and competent to give sufficient training in such trade.

All persons making application for examination under the provisions of this act shall be allowed to practice the occupation of barbering until the next regular meeting of said board. Certificates of registration provided for in this act, shall be valid for one year from the date thereof, but shall be renewed by said board upon application within thirty days after the expiration thereof and the payment of one dollar to the treasurer of said board, which application shall be accompanied by a certificate from a physician approved by said board, stating that said applicant is free from contagious or infectious diseases.

§ 9. CAN SERVE AS AN APPRENTICE OR STUDENT.] Nothing in this act shall prohibit any person from serving as an apprentice in said trade under a barber authorized to practice the same under this act, nor from serving as a student in any school for the teaching of such trade under the instructions of a qualified barber; provided, that in shops where there are two or more barbers there shall not be more than one apprentice to two barbers authorized under this act to practice said occupation.

§ 10. CERTIFICATE OF REGISTRATION.] Said board shall furnish to each person to whom a certificate of registration is issued a card or insignia bearing the seal of the board and a signature of its president and secretary, certifying that the holder thereof is entitled to practice the occupation of barber in this state, for a period of one year from the date thereof, and it shall be the duty of the holder of such card or insignia to post the same in a conspicuous place in front of his working chair, where it may readily be seen by all persons whom he may serve.

§ 11. CERTIFICATES REGISTERED BY BOARD.] Said board shall keep a register in which shall be entered names of all persons to whom certificates are issued under this act, and said register shall be at all times open to public inspection.

§ 12. POWER TO REVOKE CERTIFICATE.] Said board shall have power to revoke any certificate of registration granted by it under this act, for (a) conviction of crime, (b) habitual drunkenness for six (6) months, immediately preceding the time of receiving notice of a charge thereof duly made, as hereinafter provided, (c) gross incompetency, or (d) contagious or infectious diseases; provided, that before any certificate shall be revoked the holder thereof shall have notice in writing of the charge or charges against him, and shall at a day speci-

fied in said notice, at least (5) five days after the service thereof, be given a public hearing and full opportunity to produce testimony in his behalf and to confront the witnesses against him. Any persons whose certificate has been so revoked may, after the expiration of ninety (90) days apply to have the same re-granted and the same shall be re-granted to him upon a satisfactory showing that the disqualification has ceased.

§ 13. OCCUPATION OF BARBER. WHAT CONSTITUTES.] To shave or trim the beard or cut the hair of any person for hire or reward received by the person performing such service, or any other person shall be construed as practicing the occupation of barber within the meaning of this act.

§ 14. PENALTY FOR VIOLATION.] Any person practicing the occupation of barber without having obtained a certificate of registration, as provided by this act, or willfully employing a barber who has not such certificate, or falsely pretending to be qualified to practice such occupation under this act, or violation of any of the provisions of this act, is guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than ten (\$10) dollars or more than one hundred (\$100) dollars, or by imprisonment in the county jail not less than ten (10) days or more than ninety (90) days.

Approved March 12, 1901.

BEEF.

CHAPTER 31.

[S. B. 87.]

REGULATING SALE OF DRESSED BEEF.

AN ACT Entitled an Act Relating to the Sale of Dressed Beef

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

§ 1. MUST EXPOSE HIDE TO PURCHASER. PENALTY.] Every person, who offers to sell or sells any beef and fails to expose to the purchaser on demand the hide of the animal to be sold or sold, and does not keep such hide for ten days after the sale, at his place of residence; or refuses to allow the same to be inspected by any other person, is punishable by imprisonment in the county jail not exceeding three months, or by fine not exceeding one hundred dollars, or both.

Approved March 13, 1901.

BOARDS.

CHAPTER 32.

[Sub. for S. B. 51.]

MILITARY BOARDS.

AN ACT Amending Sections 1392 and 1393, Revised Codes of North Dakota, Relating to State Military Boards.

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

§ 1. AMENDMENT.] Section 1392 and Section 1393, Revised Codes of North Dakota, 1899, are hereby amended to read as follows:

§ 1392. THE GOVERNOR TO CONTROL STATE ENCAMPMENT GROUND AND APPOINT MILITARY BOARD.] The governor as commander-in-chief, shall have full control of the state encampment grounds on Rock Island, Ramsey County, North Dakota, and may from time to time appoint an advisory board of three officers to manage the same under such rules and regulations as he may prescribe. Provided, that all moneys received from the sale of timber, stone or other material taken from the grounds shall be paid into the state treasury and be kept as a separate fund for the improvement of the property for military uses, and shall be paid out upon proper vouchers approved by the governor.

§ 1393. THE COMPENSATION OF THE MEMBERS OF THE BOARD.] The compensation of the members of such military board when in actual attendance at meeting of the board, shall be such as prescribed by law for field duty and their actual traveling expenses in going to and returning from the place of meeting.

§ 2. EMERGENCY.] Whereas, an emergency exists, in that no account of money received from the sale of timber and material sold from the state encampment grounds is now kept by the state treasurer, and it is proper that all state funds shall be properly accounted for. Therefore this act shall be in force from and after its passage and approval.

Approved March 5, 1901.

CHAPTER 33.

[S. B. 70.]

CREATING STATE AUDITING BOARD.

AN ACT to Create a State Auditing Board for the State of North Dakota.

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

§ 1. TO CREATE STATE AUDITING BOARD.] The governor, state auditor and attorney general shall constitute a board to be known as the state auditing board. This board shall hold regular monthly meetings on the first day of every month and such other times as shall be deemed necessary, in the executive office at the seat of government. The state auditor shall act as secretary of the board and shall receive and file all claims presented to him for payment in the order in which presented, and bring them before the board at its next meeting.

§ 2. DUTIES.] It shall be the duty of this board to audit all claims which may come before it, and no warrant shall be drawn on the state treasury by the state auditor in payment of any claim except such as have been duly passed upon and approved by the state auditing board.

§ 3. EMERGENCY.] Whereas, an emergency exists in that there is now no law on the statute books providing for such a board, this act shall take effect and be in force from and after its passage and approval.

Approved February 8, 1901.

CHAPTER 34.

[S. B. 68.]

PROCEEDINGS OF BOARD OF PARDONS.

AN ACT Relating to the Board of Pardons and Prescribing the Powers and Duties Thereof.

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

§ 1. BOARD OF PARDONS.] The governor shall have power in conjunction with the board of pardons of which the governor shall be ex-officio a member, and the other members of which shall consist of the attorney general of the state of North Dakota, the chief justice of the supreme court of the state of North Dakota and two qualified electors who shall be appointed by the governor, to remit fines and forfeitures, to grant reprieves, commutations and pardons after conviction for all

offenses except treason and cases of impeachment in the manner and under the conditions hereinafter prescribed, but not otherwise.

Upon conviction for treason the governor shall have the power to suspend the execution of sentence until the case shall be reported to the legislative assembly at its next regular session, when the legislative assembly shall either pardon or commute the sentence, direct the execution of the sentence or grant further reprieve.

The governor shall communicate to the legislative assembly at each regular session each case of remission of fine, reprieve, commutation or pardon granted by the board of pardons, stating the name of the convict, the crime for which he is convicted, the sentence and its date and the date of the remission, commutation, pardon or reprieve, with their reasons for granting the same.

§ 2. PARDONS TO BE IN WRITING, UNLESS.] Every pardon or commutation of sentence shall be in writing and shall have no force or effect unless the same was granted by an unanimous vote by said board convened as such.

A reprieve in a case where capital punishment has been imposed, may be granted by the governor, but for such time only as may be reasonably necessary to secure a meeting of said board of pardons for the consideration of an application for the pardon or commutation of the sentence of the person so reprieved. Said board may grant an absolute or a conditional pardon, and any conditional pardon shall state the terms and conditions on which it was granted.

Such board of pardons may issue its warrant under the seal of said board to any proper officers to carry into effect such pardon, which warrant shall be obeyed and executed instead of the sentence which was first originally pronounced.

§ 3. PARDON, COMMUTATION OR REPRIEVE—OFFICER TO MAKE RETURN OF.] Whenever any convict is pardoned by such board, or his punishment is commuted or a reprieve is granted, the officer to whom the warrant for that purpose is issued, after executing the same, shall make return thereof under his hand with his doings thereon, to the governor, as soon as may be, and he shall also file with the clerk of the court in which the offender was convicted, an attested copy of the warrant and return, a brief abstract of which the clerk shall subjoin to the record of his conviction.

§ 4. BOARD—MEETINGS TO BE HELD. WHEN.] The board of pardons shall be convened by the governor within twenty days after the passage of this act, and shall hold at least two regular meetings in each calendar year; and may hold such other meetings as it shall deem expedient.

Such regular meetings shall be held on the second day of February and the second day of August of each year at executive office. All other meetings of the said board shall be held in the executive chamber at the state capitol, or in such other place as may be ordered by said board.

§ 5. APPLICATIONS. HOW MADE.] Every application for a par-

don, reprieve or commutation of sentence shall be in writing, addressed to the board of pardons, and shall be signed by the convict or some person in his behalf. It shall concisely state the grounds upon which the pardon, reprieve or commutation is sought, and in addition shall contain the following facts: 1. The name under which the convict was indicted, and every alias by which he has been known. 2. The date and terms of sentence and the name of the offense for which it was imposed. 3. The name of the trial judge and of the state's attorney who participated at the trial of the convict, together with that of the county in which he was tried. 4. A succinct statement of the evidence adduced at the trial with the endorsement of the judge or county attorney who tried the case, that the same is substantially correct. If such statement and endorsement are not furnished, the reason thereof shall be stated. 5. The age, birth place, parentage, occupation, residence during five years immediately preceding conviction, of convict. 6. A statement of other arrests, indictments and convictions, if any, of the convict. The board of pardons may adopt such other rules and regulations not inconsistent with the provisions of this act, as may appear to them proper and necessary to carry out the provisions thereof.

§ 6. All applications for pardons, reprieves or commutations of sentence shall be filed with the clerk of the board of pardons. The said clerk shall, immediately upon receipt of such application, mail notice thereof, and of the time and place of hearing thereof, to the judge of the court wherein the applicant was tried and sentenced, and to the state's attorney who prosecuted the applicant, or his successor in office, provided that a reprieve in capital cases may be granted as provided in section two (2) without such notice, and provided further the pardons or commutations of sentence of persons committed to a county jail or to a workhouse may be granted by said board without notice.

§ 7. CLERK OF BOARD.] The governor's private secretary, or in his absence the executive clerk, shall be and act as the clerk of the board of pardons and shall perform the duties herein required of such clerk, and such other duties as may be prescribed by said board of pardons without other or further compensation. The board shall be supplied by the secretary of state with such books, blanks and stationary as shall be necessary. Said board shall preserve a record of every petition received for a pardon, reprieve or commutation of sentence, and of every pardon, reprieve or commutation of sentence granted or refused and the reasons assigned therefor. The clerk shall keep such records and perform such duties in relation thereto as shall be prescribed by the board, and all such records and files shall be kept and preserved in the office of the governor at the state capitol, and shall be open to the inspection of the public at all reasonable times.

§ 8. The board of pardons shall supply itself with a seal, with which every pardon, reprieve or commutation of sentence shall be attested. It may issue process requiring the presence of any person be-

lore it, or the presence of any officer before it, with or without books and papers, in the matter pending before said board, and may take whatever reasonable steps in such matter as it may deem necessary to a proper determination thereof. Whenever a person is summoned before the board by its authority he may be allowed such compensation for travel and attendance as the board, in its discretion, may deem reasonable.

§ 9. APPROPRIATION. COMPENSATION OF MEMBERS OF BOARD. The sum of six hundred dollars, or so much thereof as may be necessary, is hereby annually appropriated, for the purpose of carrying out and enforcing the provisions of this act. The two qualified electors to be appointed on the board shall receive as compensation five dollars per diem while necessarily employed in attendance upon the sessions of the board and all traveling expenses necessarily incurred therein to be paid as provided by law for the payment of trustees under section 8521, Revised Codes of 1899.

§ 10. POWER.] The board of pardons is hereby empowered to restore to citizenship any person convicted of any offense committed against the state, upon cause being shown, either after the execution or expiration of sentence or at any other time.

§ 11. REPEAL.] That sections 8431, 8432, 8433, 8434, 8435, 8436, 8437, 8438, 8439, 8440 and 8441 of the Revised Codes of 1899 be and the same are hereby repealed.

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

§ 13. EMERGENCY.] Whereas an emergency exists in that there is no provision of the law now existing providing for the pardon of any person or persons convicted of crimes in this state, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 5, 1901.

CHAPTER 35.

[H. B. 214.]

MEETINGS AND COMPENSATION OF NORMAL SCHOOL BOARDS.

AN ACT to Amend Section 911 of the Revised Codes, Relating to the Meetings and Compensation of the Members of the Board of Trustees and the Boards of Management of the Normal Schools.

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

§ 1. AMENDMENT.] That section 911 of the Revised Codes be amended so as to read as follows:

§ 911. MEETINGS. COMPENSATION.] The board of trustees shall meet at Valley City and at Mayville, or at the seat of government, at

such time each year as may be decided upon by the board. The members of the board shall receive the sum of three dollars per day for each day employed in attendance upon sessions of the board of trustees, or the board of management, and their actual and necessary expenses in attending meetings of the respective boards, or in other duties connected therewith, which expenses shall be paid out of the state treasury upon the vouchers of the respective boards in the manner provided by law. The board of trustees shall not be in session for exceeding eight days in any one year nor either board of management to exceed twelve days during each year. The secretary of the board of trustees shall receive such salary as shall be determined by the board, not exceeding one hundred dollars a year and his actual expenses incurred in attending meetings of the board, which shall be paid as herein provided for members of the board of trustees.

Approved March 8, 1901.

CHAPTER 36.

[S. B. 186.]

BOARD OF TRUSTEES FOR INSTITUTION OF FEEBLE MINDED.

AN ACT Creating a Board of Trustees for an Institution for the Feeble Minded, Located at or Near the City of Grafton, Walsh County, North Dakota, by an Act of Congress Entitled "An Act Making Appropriations for Sundry Civil Expenses of the Government in the Fiscal Year Ending June 30, 1895, and for Other Purposes," Approved August 18, 1894, and Defining the Duties of Such Board of Trustees.

Whereas, by "An act appropriating moneys for the erection of a penitentiary in the territory of Dakota," approved March 2, 1881, and by a subsequent enabling act entitled "An act to provide for the division of Dakota into two states and to enable the people of North Dakota and South Dakota and other states to form constitutions, state governments and other things," approved February 22, 1889, provides, among other things, that the lands so set apart for said penitentiary for the territory of Dakota, together with the buildings thereon, and any unexpended balance of money appropriated therefor become the property of the state of South Dakota, and that the state of North Dakota should have like grant for the same purpose and subject to like terms and conditions as provided in the said act of March 2, 1881, for the territory of Dakota; and

Whereas, by an act of congress, passed and approved September 30, 1890, entitled "An act making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1890, and for

prior years and for other purposes," a grant of thirty thousand dollars was made and appropriated for the construction of a penitentiary building, to be expended under the superintendency of the secretary of the interior, in the state of North Dakota, upon a tract of land at or near the city of Grafton, in the county of Walsh, to be designated by the secretary of the interior, a portion of which sum has been expended in the purchase of a site for said building, consisting of forty acres of land near said city of Grafton; and

Whereas, by a subsequent act of congress entitled, "An act making appropriations for sundry civil expenses of the government for the fiscal year ending June 30, 1895, and for other purposes," approved August 18, 1894, which act, so far as it relates to the subject matter of this act, provides as follows, to-wit: that the secretary of the treasury, be, and he is hereby directed to pay to the treasurer of the state of North Dakota, the unexpended balance of thirty thousand dollars appropriated by "An act of congress making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1890, and for prior years, and for other purposes," approved September 30, 1890, for the construction under the direction and supervision of the secretary of the interior of a penitentiary building in the state of North Dakota, upon such tract or parcel of land, at or near the city of Grafton, in the county of Walsh, as should be designated by the secretary of the interior, said unexpended balance to be used by said state of North Dakota for the erection of an institution for the feeble minded, upon the tract or parcel of land designated and secured by the secretary of the interior for the site of the penitentiary building provided for in said act, and when said sum, so to be paid to the treasurer of the state of North Dakota, shall have been expended by said state in the erection of an institution for the feeble minded, the secretary of the interior is hereby directed to release and convey to said state of North Dakota the title of the United States in and to the parcel of land upon which said building shall have been erected, including all interest in said building, and the money so paid to the treasurer of the state of North Dakota shall be in full settlement of all claims of said state under section 15 of the act approved February 22, 1889, 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 an equal footing with the original states, and to make donations of public lands to said states;"

Whereas, the balance of said sum of thirty thousand dollars so appropriated has been paid to the treasurer of the state of North Dakota, and is now held subject to the use provided for in said act; therefore,

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

§ 1. BOARD OF TRUSTEES.] There is hereby created a board of trustees for an institution for the feeble minded, to be located at or near the city of Grafton on the site heretofore procured, said board

to consist of five members to be appointed by the governor immediately following January 1st, after the taking effect of this act.

§ 2. HOW LONG TO SERVE.] The members of said board of trustees shall hold office respectively until the first day of January, A. D. 1903, or until their successors are appointed, unless sooner removed for cause.

§ 3. BONDS OF TRUSTEES.] Within twenty days after their appointment, the members of said board shall each furnish a bond running to the state of North Dakota in the penal sum of five thousand dollars, with two or more sureties, conditioned for the honest and faithful performance of the duties of trustees, said bond to be approved by the governor and attorney general, and to be filed with the secretary of state. Each trustee shall subscribe and endorse on said bond an oath of office the same as is by law required of civil officers.

§ 4. ORGANIZATION OF BOARD.] Within ten days after their qualification as provided in the preceding section, the members of said board shall meet and organize, by electing from their own number a president, a secretary and a treasurer.

§ 5. MEETINGS. WHERE HELD.] The meetings of said board shall be held in the city of Grafton.

§ 6. BOARD. TREASURER OF TO GIVE BOND.] Before entering upon his duties as treasurer, the treasurer of said board shall give a bond to the state of North Dakota in the penal sum of thirty thousand dollars, with two or more sureties, to be approved by the governor and attorney general, and to be filed with the secretary of state, conditioned for the honest and faithful performance of the duties of treasurer of said board.

§ 7. TREASURER TO DISBURSE MONEYS. HOW. STATEMENT.] The treasurer shall disburse all moneys coming into his hands, on orders authorized by the board, and signed by its president and secretary, and shall semi-annually, or whenever called upon by the governor, render to the governor a detailed statement of the receipts and disbursements, exhibiting vouchers therefor.

§ 8. BUILDING. BOARD TO PROCURE PLANS FOR.] It shall be the duty of said board immediately after its organization to procure suitable plans for the erection of a building to be used as an institution for the feeble minded, not later than April 1, 1902, and when such plans shall have been approved by the board to proceed to erect such building. It shall advertise for bids for the construction of said building for not less than twenty days in three daily papers, two of which shall be published in the state of North Dakota, the contract for the erection of such building to be let to the lowest responsible bidder, the board reserving the right to reject any or all bids.

§ 9. BUILDING. GOVERNOR TO BE NOTIFIED OF COMPLETION OF.] When said building shall have been completed, or when the entire fund shall have been expended in the erection thereof, which shall be not later than October 15, 1902, it shall be the duty of the board to immediately notify the governor thereof.

§ 10. FUNDS APPROPRIATED. STATE TREASURER TO PAY TO TREASURER OF BOARD.] It shall be the duty of the state treasurer, from time to time, to pay to the treasurer of said board, out of the funds in his hands appropriated for said purpose by an act of congress entitled, "An act making appropriations for sundry civil expenses of the government for the year ending June 30, 1895, and for other purposes," approved August 18, 1894, all moneys appropriated by said act for the purpose of the erection of an institution for the feeble minded at or near the city of Grafton, together with the accumulations thereon, upon orders authorized by said board and signed by its president and secretary; provided, that not more than ten thousand dollars shall be drawn from said fund at any one time.

§ 11. GOVERNOR TO REQUEST CONVEYANCE OF LAND FROM UNITED STATES. WHEN.] Upon receipt of notice from the board that the building has been duly completed and accepted, or that the fund has been expended in the erection thereof, the governor shall, without delay, give notice to the secretary of the interior that the money has been so expended; and shall request a conveyance from the United States to the state of North Dakota of the land upon which the same shall have been erected, in compliance with the act of congress mentioned in the preceding section of this act, which said conveyance shall be duly recorded in the proper office.

§ 12. BOARD. COMPENSATION OF.] Each member of said board shall receive as full compensation for his services as such trustee three dollars per day for each day necessarily and actually employed in his duty as such trustee, together with five cents per mile for each mile necessarily traveled in going to and returning from the place of meeting of the board, to be paid out of the fund in this act mentioned.

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

Approved March 11, 1901.

CHAPTER 37.

[S. B. 117.]

BOARD OF TRUSTEES SOLDIERS' HOME.

AN ACT to Amend Section 1015 of the Revised Codes of the State of North Dakota, Relating to the Duties of the Board of Trustees of the Soldiers' Home.

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

§ 1. AMENDMENT.] That section 1015 and article 2 of chapter 10 of the Revised Codes of the State of North Dakota for the year 1899 be amended so as to read as follows:

§ 1015. ANNUAL MEETING.] It shall be the duty of the board to meet annually on the first Tuesday in June, and at such meeting to elect a chairman of the board. The commandant shall act as secretary of said board. The board shall have four regular meetings in each year and may adopt a seal and make rules and regulations not inconsistent with the Constitution of the United States, or of this state, for the management and government of such homes, including such rules as it shall deem necessary for the preservation of order, enforcing discipline and preserving the health of its inmates. The board shall annually make full and detailed reports of the disbursements of the home and its condition financially and otherwise to the governor, and to each regular session of the legislative assembly.

Approved March 8, 1901.

BONDS.

CHAPTER 38.

[S. B. 136.]

STATE UNIVERSITY.

AN ACT Authorizing the Board of Trustees of the State University to Issue Bonds to Provide a Fund for the Necessary Repairs of Building and to Pay the Floating Indebtedness of Said University.

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

§ 1. BONDS. STATE UNIVERSITY TO ISSUE.] To provide for the necessary repairs of buildings of the state university and to pay the outstanding floating indebtedness of said institution, the board of trustees of said state university may, if the majority of said board so decide, issue bonds in the sum not exceeding fifty thousand dollars (\$50,000).

§ 2. BONDS. DENOMINATION OF.] Said bonds shall be issued in denominations of one thousand dollars (\$1,000) each; they shall be signed by the president of the board of trustees and attested by the secretary of said board under the seal of the institution, and shall be payable twenty years from date of issue.

§ 3. BONDS. INTEREST ON.] Said bonds shall bear interest at the rate of four per cent (4 per cent) per annum, which interest shall be payable on the first day of January each year at the office of the state treasurer. The principal and interest of said bonds shall be payable

out of the interest on the funds accumulated from sale of lands and income of the lands donated and apportioned to said state university and the school of mines. In the event that income from said lands and interest on such funds in any one year shall be insufficient to pay the interest due upon said bonds for such year, the balance of such interest shall be paid out of the annual appropriation for said state university for such year.

Approved March 11, 1901.

CHAPTER 39.

[H. B. 203.]

BONDS FOR CONSTRUCTING DRAINS.

AN ACT to Amend Section 1474 of the Revised Codes, Providing for the Issue of Bonds for Defraying the Expenses of Constructing Drains.

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

§ 1. AMENDMENT.] That section 1474 of the Revised Codes be amended so as to read as follows:

§ 1474. BONDS, WHEN AND HOW ISSUED.] The board of county commissioners of any county in which any such drain is proposed to be located and constructed is authorized to issue bonds in such sums as may be necessary for the purpose of defraying the expenses incurred, or to be incurred, in obtaining the right of way or in locating or constructing any such drain, said word "expenses" to be construed to mean and to cover every item of cost of such drain from its inception to its completion as hereinbefore provided, which bonds shall be paid out of the revenues to be derived from taxes levied, or to be levied, and collected from that portion of the county fund by the board of drain commissioners to be benefited thereby. Such bonds shall bear interest at a rate not exceeding seven per cent, and shall be payable in not less than three and in not more than seven years from the date thereof; provided, that any land owner who may desire to pay the entire amount assessed against his land for the entire cost of such drain, including warrants and interest thereon may, prior to the sale of such bonds, pay into the county treasurer [treasury] the amount of said assessments for which the treasurer shall give his receipt in full, and such lands shall not be included in the list of the lands assessed. The money paid in shall be used to take up warrants and the bonds issued shall be for such an amount as will pay the remainder of the warrants outstanding and the said board shall provide sinking funds for the payment at maturity of each series of bonds issued and for the payment of the annual interest on the same. The bonds issued under the provisions of this chapter shall be signed by the chairman of the board of county commissioners of such

county and countersigned by the county auditor, who shall keep a record of the bonds issued under the provisions of this chapter. Such board shall have the power to negotiate such bonds at not less than the par value thereof as it may deem best for the interest of all persons interested in such drain. Such bonds shall contain a recital that the same are issued in accordance with the provisions and pursuant to the authority of this chapter and that they are to be paid out of sinking funds to be created as in this chapter provided. Whenever such bonds shall be issued the tax hereinbefore provided for shall not be collected all in one year, but shall be divided into as many parts as such bonds have years to run, and one of such parts shall be extended upon the tax lists by the county auditor against the proper parcels of land and property liable to taxation for that purpose in each and every year and collected in such year and such fund shall constitute the sinking fund provided by this section. The board of county commissioners shall in each year at the time of levying the taxes, levy upon the property liable to taxation on account of the location and construction of any drain a tax sufficient to pay the annual interest on any bonds which may have been issued for the purpose of locating and constructing the drain. Separate sinking funds shall be provided for each separate drain for the construction of which bonds shall have been issued, and no funds in any such sinking fund shall be applied to any other purpose than the payment of the bonds for the payment of which such fund was created. No county shall be liable for the payment of any bonds issued under the provisions of this chapter, but such bonds shall be paid only out of the sinking funds created as in this chapter provided.

Approved March 12, 1901.

CHAPTER 40.

[H. B. 118.]

ISSUING SCHOOL BONDS.

AN ACT to Amend Sections 775 and 777 of the Revised Codes of 1899, Relating to School District Bonds.

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

§ 1. AMENDMENT.] That sections 775 and 777 of the Revised Codes of 1899 be amended so as to read as follows:

§ 775. SCHOOL BONDS. HOW ISSUED.] Whenever a duly constituted school district, including independent school districts, 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 such school district present at such meeting and voting, to issue school district bonds for the purpose of building and furnish-

ing a school house and purchasing grounds on which to locate the same, or to fund any outstanding indebtedness, or for the purpose of taking up any outstanding bonds, the district school board may lawfully issue such bonds in accordance with the provisions of this article.

§ 777. BONDS. DENOMINATION OF. INTEREST. LIMIT OF ISSUE.] The denomination of the bonds which may be issued under the provisions of this article shall be fifty dollars or some multiple of fifty, not exceeding five hundred dollars, and shall bear interest at the rate of not exceeding seven per cent per annum, payable semi-annually on the first day of January and July in each year, in accordance with interest coupons which shall be attached to such bonds; and no greater amount than one thousand dollars can be issued for any one school house except in districts, towns and villages of more than two hundred inhabitants, and in such districts the amount including all other indebtedness, shall not exceed five per cent of its assessed valuation, and may be made payable in not less than ten, nor more than twenty years from their date.

§ 2. EMERGENCY.] Whereas, an emergency exists in that there is no adequate law for issuing school bonds in certain cases, therefore this law shall be in force and take effect on and after its passage and approval.

Approved March 6, 1901.

CHAPTER 41.

[S. B. 113.]

BONDS FOR 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 the year 1900 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 determine that the prayer of the petitioners should be granted; provided, that all such petitions shall be filed with the

county auditor, on or before the 1st day of April, 1901; 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 cases; that said bonds shall be in denominations of five hundred (\$500.00) dollars; shall bear a rate of interest not exceeding seven per cent per annum, payable semi-annually at such place and times as shall be determined by said board, and that all bonds issued under the provisions of this act shall become due and payable in not more than two years from the date thereof, the date of maturity being fixed by the board of county commissioners at the time of the issuance thereof, within the above limitations.

§ 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, also a certificate endorsed thereon and signed by the county auditor 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 of county commissioners to receive sealed proposals for the purchase of said bonds after giving notice for at least ten days in such newspaper or newspapers as such board by vote determine, 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 said board may reject all bids and postpone the sale of said bonds for a time not exceeding ten 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 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. 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 that other taxes are levied, in case said indebtedness is not fully paid by the applicants, such sums as shall be sufficient to pay such principal and interest 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 it shall fall due. No tax or fund provided for the payment of said 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 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 county 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 of maturity, amount, rate of interest, to whom and where payable. 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 the constitutional debt limit.

§ 6. FUNDS. HOW TO BE USED.] The funds arising from the sale of said bonds or warrants, shall be applied exclusively by 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.

§ 7. 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 of the county where said applicant resides, on or before (the 1st day of) April an application duly sworn to before said auditor, 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 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 commissioners may in their discretion consider any applications made after the time so specified.

§ 8. BOARD OF EXAMINATION AND ADJUSTMENT.] The board of county commissioners of each county issuing bonds or warrants under the provisions of this act, are hereby appointed and constitute a board of examination and adjustment of the applications for seed grain

filed under the preceding section, and it shall be the duty of the said board to meet at the county auditor's office on the first Tuesday in April, 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 10th day of April deliver to and file with the county auditor, its adjustment of the said applications, which shall be signed by the chairman of the board.

§ 9. HOW GRAIN TO BE ISSUED TO APPLICANT. VALUE TAXED AGAINST LAND. WHEN.] The auditor 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 therefor.

Provided, however, that said order shall not be delivered until said applicant shall have signed a contract in duplicate, attested by the county auditor, to the effect that said applicant for and in consideration of.....bushels of seed grain received fromcounty, promises to pay said county.....dollars, the amount of the cost of said seed grain with interest thereon at seven per cent until paid; interest payable annually; that the amount of such indebtedness shall become due and payable on the first day of October in the year in which seed grain is furnished, together with interest on such amount from the date of said contract, at the rate of seven per cent per annum, interest payable annually.

§ 10. LIEN ON CROP.] Upon the filing of the contracts provided for in section 9, the county shall acquire a just and valid lien upon all the crop of grain raised 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.

§ 11. 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 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.

§ 12. 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 fifty (\$50.00) dollars, nor more than one hundred and fifty (\$150.00) 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 of the growing crop and 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.

§ 13. 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 and dismiss the complaint or bind the offender over to appear before the district court, as the case may be.

§ 14. 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 April as is possible for them to do, giving notice that all applications must be filed with the county auditor by the first day of April.

Provided, that no distribution of seed grain under the provisions of this act shall take place prior to the tenth day of April. 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.

§ 15. 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 the applicants at the actual cost thereof to the commissioners, with transportation and handling charges added, if any there be, provided that the commissioners may add thereto a sum not to exceed five cents a bushel to cover expenses and cost of collections, 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.

§ 16. 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.

§ 17. 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 par value thereof with accrued interest.

§ 18. TAXES. WHEN NOT TO 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, on or before November 1st, to meet the interest and sinking fund provided for in this act, then there shall be no tax levied for such purposes in that year, and in no year shall there be a greater sum levied than will, together with the balance at that date in the treasury belonging to the said seed grain fund, be sufficient to pay the warrants, bonds and interest.

§ 19. EMERGENCY.] As there are settlers who are unable to procure seed for their farms for the coming spring, an emergency exists, this act shall take effect and be in force immediately after its passage and approval.

Approved February 18, 1901.

CHAPTER 42.

[S. B. 103.]

BOND OF CITY TREASURER.

AN ACT Authorizing the Requirement of an Additional Bond to be Furnished by City Treasurers, and Declaring the Office Vacant Upon Neglect or Refusal so to do.

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

§ 1. ADDITIONAL BOND MAY BE REQUIRED OF CITY TREASURER.] The city council of any city incorporated under chapter 28 of the Political Code, may require the city treasurer to give additional sureties whenever in the opinion of the city council the existing security shall have become insufficient; and such city council is authorized and empowered to require from the city treasurer an additional bond

as required by law, with good and sufficient sureties in such sum as it may direct, whenever in their opinion more money shall have passed or is about to pass into the hands of such treasurer than is or would be recovered by the penalty in the previous bond.

§ 2. FAILURE TO GIVE ADDITIONAL BOND. EFFECT.] If any city treasurer shall fail or refuse to give such additional bond or sureties for twenty days from and after the day on which such city council shall require him so to do, his office shall become vacant and the city council shall appoint another treasurer to fill such vacancy, who shall hold his office until his successor has been elected and qualified.

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

§ 4. WHEN TO TAKE EFFECT. EMERGENCY.] Whereas, there is no provision of law authorizing the requirement of additional bonds from city treasurers in cases where money has passed or is about to pass into the hands of such treasurer than would be recovered by the penalty in the previous bond furnished, this act shall take effect and be in force immediately upon its passage and approval.

Approved March 8, 1901.

BONDED INDEBTEDNESS.

CHAPTER 43.

[S. B. 124.]

RETIRING BONDED INDEBTEDNESS OF STATE.

AN ACT to Provide a Fund for the Purpose of Retiring the Principal of the Bonded Indebtedness of the State.

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

§ 1. BONDED INDEBTEDNESS. FUND FOR RETIRING.] The state board of equalization, at the time the other taxes are levied shall levy a tax in 1902 and annually thereafter, equal in amount to one thirtieth of the present bonded indebtedness of the state, which tax shall be collected in the same manner as other taxes are collected, and when collected shall be used to retire and pay any state bonds at their maturity to the extent of the tax then collected and available for that purpose. No tax or fund provided for the payment of such bonds shall be used for any other purpose. Nothing in this act shall be construed to repeal any prior law for the levying of a sinking fund, but in no case shall the board levy a double tax for the same purpose.

Approved March 6, 1901.

BOUNTY.

CHAPTER 44.

[S. B. 94.]

BOUNTY FOR BINDING TWINE.

AN ACT Repealing Sections 1679 and 1680, Revised Codes of 1899, Relating to Bounties for the Manufacture of Binding Twine.

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

§ 1. REPEAL.] Sections 1679 and 1680, Revised Codes, 1899, are hereby repealed.

Approved March 8, 1901.

CHAPTER 45.

[S. B. 72.]

BOUNTIES ON STARCH.

AN ACT to Repeal Sections 1681 and 1682 of the Revised Codes of 1899 Relating to Bounty on Starch.

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

§ 1. REPEAL.] That sections 1681 and 1682 of the Revised Codes of 1899 relating to who is entitled to a bounty on starch, and what bounty is to be paid, be and the same is hereby repealed.

§ 2. EMERGENCY.] Whereas, the financial interests of the state require strict economy, and the bounty called for by the above sections of the Revised Codes of 1899 has expired by limitation.

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

Approved February 26, 1901.

BUILDING AND LOAN ASSOCIATIONS.

CHAPTER 46.

[S. B. 232.]

EXAMINATION OF BUILDING AND LOAN ASSOCIATIONS.

AN ACT to Amend Section 3218 of the Revised Codes of 1899, Relating to the Examination of Building and Loan Association by the State Examiner and the Fees Therefor.

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

§ 1. AMENDMENT.] That section 3218 of the Revised Codes of 1899 be amended to read as follows:

§ 3218. EXAMINATION BY STATE EXAMINER. FEE.] It shall be the duty of the state examiner, as often as he may deem necessary, and at least twice in each year, to examine every building and loan association incorporated under the laws of this state, and for that purpose he shall have and exercise over such corporation, its business, officers, directors and employes all the power and authority conferred upon him by the laws of this state over banks and other moneyed corporations; provided, that he shall not have the power to suspend the operation of any such corporation, except in the manner provided in this chapter. The state examiner shall have the same supervision and control over the business within this state of foreign corporations of like kind, doing business in this state. Upon the completion of any examination of any association made by the state examiner or under his direction, the association so examined shall pay to the examiner a fee to be determined as follows, viz.: For the first one hundred thousand dollars of assets, a fee of twenty dollars and for each additional one hundred thousand dollars of assets, or major portion thereof, an additional fee of ten dollars.

Approved March 13, 1901.

CAUCUSES.

CHAPTER 47.

[S. B. 71.]

CAUCUSES.

AN ACT to Amend Section 497b of the Revised Codes of 1899, Relating to the Time of Holding Caucuses and the Issuance of Certificates of Election of Delegates.

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

§ 1. AMENDMENT.] Section 497b of the Revised Codes 1899, is hereby amended so as to read as follows:

WHEN CAUCUS HELD. CERTIFICATES.] All caucuses held under the provisions of this article shall be held between the hours of two o'clock p. m., and nine o'clock p. m., and the polls shall be kept open at least one hour. The electors present at such caucus shall at the opening of the polls elect by viva voce vote a chairman and clerk of such caucus, whose powers and duties shall be the same as the powers and duties of judge and clerk of elections, respectively, in so far as the same shall be applicable. The chairman and clerk of such caucus shall, at the close of the polls, immediately canvass the ballots cast for delegate or delegates, and shall issue certificates of election to each delegate who shall receive a plurality of all the votes cast at such caucus. Such certificate shall be signed by said chairman and clerk.

Approved March 11, 1901.

CHAPTER 48.

[H. B. 173.]

REGULATING CAUCUSES AND CONVENTIONS.

AN ACT to Amend Section 502 of the Revised Codes of 1899, Relating to Certificates of Nomination and Prescribing the Qualifications of Persons Participating in Nomination at Caucuses or in Conventions, or by Petition, and Prescribing the Duties of the Secretary of State and County Auditor in Reference to the Placing of Nominees on the Official Ballot.

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

§ 1. AMENDMENT.] That section 502 of the Revised Codes of the state of North Dakota of 1899, the same being also section 502 of the Revised Codes of the state of North Dakota of 1895 be, and the same is hereby amended so as to read as follows:

§ 502. CERTIFICATE TO CONTAIN BUT ONE NAME.] No certificate of nomination shall contain the name of more than one candidate for each office to be filled. No person shall participate directly or indirectly in the nomination at caucus, in convention or by petition of more than one person for each office to be filled, and no person shall accept a nomination for more than one office. That no political party shall be entitled to have placed upon the official ballot more than one set or list of nominees for any state, county, city or other municipal office to be voted for in said state, county, city or municipality. And in case two or more organizations claiming or purporting to represent the same political party, shall file certificates of nominations under the same party designation, or such certificates indicate that the nominations therein mentioned were made by any person or any organization representing the same political party, the secretary of state, in cases where such certificates are filed in his office, shall within the time prescribed by law for certifying state nominations to the county auditor, determine from the best available sources of information which organization filing such certificates has been longest in existence as a political organization representing such party; and only the nominees named by such organization, longest in existence, shall be certified to the county auditor, and such nominations only shall be printed on the official ballot. And in case two or more organizations claiming or purporting to represent the same political party shall file certificates of nomination with the county auditor, city auditor, or clerk of any municipality, or such certificates indicate that the nominations therein mentioned were made by persons or organizations representing the same political party, the county auditor shall determine from the best available sources of information which organization, filing such certificates, has been longest in existence as a political organization representing such party; and only the nominations made by such organization longest in existence shall be printed on the official ballot. Provided, however, that the decision of the officer determining which organization has been the longest in existence in representing such party, shall be subject to review by the court in a proper action instituted for such purpose. And provided further, that this act shall not be construed to prohibit any new organization from nominating any person or persons for an office and having such nomination placed on the official ballot, but such organization shall not adopt the name or designation of the political party represented by the older organization, if still in existence, and the certificate of nomination filed by it shall, by clear and distinct language, indicate and show that the organization filing it represents a separate and distinct political party.

Approved March 8, 1901.

CLAIMS AGAINST STATE.

CHAPTER 49.

[S. B. 129.]

CLAIMS AGAINST STATE.

AN ACT Relating to the Manner of Making and Filing Claims Against the State, and Prescribing Forms to be Used.

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

§ 1. FILING CLAIMS AGAINST THE STATE.] No bill, claim, account or demand against the state, except as otherwise provided by law, and except in cases of salaries fixed by law, 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; said statement to be verified by the oath of the party making it, substantially in the following forms: In case the voucher is for services, the oath shall be as follows:

State of North Dakota,)
County of) ss.

I do solemnly swear that the within account and claim is just and true; that the money therein charged was actually paid for the purpose therein stated; that the services therein charged were actually rendered and of the value therein charged; and that the fees or amounts charged therefor are such as are allowed by law, and that no part of such account, claim or demand has been paid.

(Sign Here)

Subscribed and sworn to before me this.....day of.....
A. D. 190....

In case the voucher is for supplies, the oath shall be as follows:

State of North Dakota,)
County of) ss.

I do somenly swear that the within account and claim is just and true; that the property therein charged was actually delivered and was of the value therein charged, and that no part of such account, claim or demand has been paid.

(Sign Here)

Subscribed and sworn to before me this.....day of.....
A. D. 190....

§ 2. EMERGENCY.] Whereas, an emergency exists in this, that there is no law requiring vouchers to be itemized and verified, therefore this act shall take effect and be in force immediately after its passage and approval.

Approved March 5, 1901.

CEMETERY LOTS.

CHAPTER 50

[H. B. 175.]

CEMETERY LOTS.

AN ACT Relating to the Transfer of Cemetery Lots by Religious Corporations.

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

§ 1. TRANSFERRING CEMETERY LOTS.] That all religious corporations organized and existing under and by virtue of the laws of the state of North Dakota, and now owning, holding, controlling or operating, or who may own, hold, control or operate any land for cemetery purposes shall be subject to and governed by the provisions of article 4, chapter 17, of the Civil Code.

Approved March 6, 1901.

CLERK HIRE.

CHAPTER 51.

[S. B. 171.]

CLERK HIRE.

AN ACT to Punish the Taking by Any State or County Officer of Any Portion of the Allowance for Clerk Hire in His Office.

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

§ 1. CLERK HIRE. TO PUNISH THE TAKING OF BY STATE OR COUNTY OFFICER.] Any state or county officer who shall either directly or indirectly receive and appropriate to his own use and benefit any part of the allowance made for clerk hire in his said office shall be guilty of a misdemeanor.

Approved March 12, 1901.

COUNTY COMMISSIONERS.

CHAPTER 52.

[Sub. for S. B. 115.]

COUNTY COMMISSIONERS.

AN ACT to Amend Sections 1842, 1893, and 1896, of the Revised Codes of 1899 Relating to Commissioner Districts, and the Powers and Election of County Commissioners.

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

§ 1. AMENDMENT.] That section 1842 of the Revised Codes of 1899 be amended to read as follows:

§ 1842. POWER OF COUNTY COMMISSIONER.] The county commissioners elected or appointed under the provisions of this article shall have power to divide the county into three commissioner districts, which shall be numbered from one to three, and such districts shall not be changed oftener than once in four years and then only at a regular session of the board. Three commissioners shall be elected, one from each of such districts, at the next general election after such organization, one of whom shall be chosen for the term of two years, two for four years, and thereafter as provided by law. The inspectors of election shall receive for their services the sum of four dollars per day for the time actually and necessarily employed and ten cents per mile for each mile actually and necessarily traveled, the account thereof to be approved by the governor and audited and paid out of the state treasury.

§ 2. AMENDMENT.] That section 1893 of the Revised Codes of 1899 be amended to read as follows:

§ 1893. DISTRICTS. HOW FORMED. COMMISSIONERS, HOW DESIGNATED.] 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 be the duty of the board of county commissioners, within ten days after the votes have 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 commissioner for the fourth district for a term of two years, and the commissioner for the fifth district for a term of four 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 such 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 de-

clare 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. AMENDMENT.] That section 1896 of the Revised Codes of 1899 be amended to read as follows:

§ 1896. TERM OF OFFICE OF COMMISSIONERS.] The commissioners shall hold their office for the term of four years, except as herein provided by law for the organization of counties, and in counties now organized the order of their election and succession shall be as herein provided, and commissioner districts in such counties shall continue as now constituted until changed as provided by law.

§ 4. VACANCIES, HOW FILLED.] The vacancies on the board of county commissioners which will occur in the years 1901 and 1903 shall be filled as provided in section 366 of the Revised Codes of 1899.

Approved March 12, 1901.

CHAPTER 53.

[S. B. 88.]

COUNTY COMMISSIONERS' SALARY.

AN ACT to Amend Section 2095 of the Revised Codes of 1899, Relating to Compensation of County Commissioners and Fixing the Hours of Meeting.

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

§ 1. AMENDMENT.] That section 2095 of the Revised Codes of 1899 be amended and re-enacted to read as follows:

§ 2095. COMPENSATION ALLOWED. OFFICE HOURS.] County commissioners shall each be allowed for the time they are necessarily employed in the duties of their office, the sum of four dollars per day, and five cents per mile for the distance actually traveled in attending the meetings of the board and when engaged in other official duties, to be paid out of the general fund of the county, and their office hours shall be not less than from nine to twelve a. m., and two to six p. m., during regular or special sessions held by such board.

Approved March 14, 1901.

CHAPTER 54.

[H. B. 144.]

REDISTRICTING COUNTY COMMISSIONERS' DISTRICTS.

AN ACT to Amend Sections 1894 and 1895 of the Revised Codes of the State of North Dakota of 1899, Relating to the Procedure for Redistricting County Commissioners' Districts.

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

§ 1. AMENDMENT.] That sections 1894 and 1895 of the Revised Codes of 1899 be amended so as to read as follows:

§ 1894. COMMISSIONER DISTRICTS REDISTRICTED. WHEN.] The county judge, auditor and clerk of the district court of each county shall constitute a redistricting board with power to redistrict the commissioner districts in any county whenever twenty-five per cent of the legal voters of the county, as shall be determined by the votes cast at the last preceding general election for congressman, shall petition said board to change the boundaries of the commissioner districts and file said petition with the county auditor. Within twenty days after the filing of said petition it shall be the duty of the county auditor to call a meeting of the redistricting board to consider such petition, and if it shall appear that the commissioner districts of such county are not reasonably equal in population or extent of territory they shall proceed at once to redistrict such county into commissioner districts.

§ 1895. DUTY OF REDISTRICTING BOARD.] In redistricting any county it shall be the duty of the redistricting board to make the districts as regular and compact in form as practicable, and as equal in population as possible, as shall be determined by the vote cast at the last preceding general election, but no new district shall be so formed that any two of the then acting commissioners shall reside in the same district, and no county shall be redistricted oftener than once in five years.

Approved March 8, 1901.

COUNTY MUTUAL INSURANCE COMPANIES.

CHAPTER 55.

[S. B. 108.]

COUNTY MUTUAL INSURANCE COMPANIES.

AN ACT to Amend Section 3139 of the Revised Codes of 1899 Relating to "County Mutual Insurance Companies." "Bylaws May Provide Sinking Fund for Different Departments."

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

§ 1. AMENDMENT.] That section 3139 of the Revised Codes of 1899 be amended to read as follows:

§ 2. Sec. 3139. BY-LAWS MAY PROVIDE A SINKING FUND FOR THE DIFFERENT DEPARTMENTS.] Any company organized under this article may provide in its by-laws for creating a fund of not to exceed fifteen thousand (\$15,000) dollars in the hail department, and of not to exceed three thousand (\$3000) dollars in the fire, lightning and cyclone department. Provided, that when the total amount of insurance in the fire, lightning and cyclone department aggregates or exceeds three hundred thousand (\$300,000) dollars the fund herein provided for may be increased to one per cent of the total amount of insurance actually in force in the fire, lightning and cyclone department; and, provided, further, that in no case shall the loss fund in the fire, lightning and cyclone department exceed ten thousand (\$10,000) dollars, the by-laws to set forth the manner in which such funds shall be created and the purpose to which they shall be applied.

§ 2. EMERGENCY.] Whereas, the present law providing the amount of sinking funds is not sufficient for the demands of some of the mutual insurance companies organized under the laws of this state, therefore this act shall take effect and be in force after its passage and approval.

Approved March 5, 1901.

COUNTY JUDGES.

CHAPTER 56.

[H. B. 134.]

DUTIES OF COUNTY JUDGES.

AN ACT to Amend Section 6172 of the Revised Codes of North Dakota, Defining the Duties of County Judges.

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

§ 1. AMENDMENT.] That section 6172 of the Revised Codes of North Dakota be amended so as to read as follows:

§ 6172. JUDGE NOT TO ACT AS ATTORNEY. WHEN.] A county judge shall not be attorney in any civil or criminal action or other judicial proceeding, which involves or relates to an estate, or any part thereof, or other matter over which he has or may thereafter obtain jurisdiction, either for or against a surviving husband or wife, heir, devisee, executor, administrator, guardian or ward, debtor, creditor or other person, and he shall not counsel or advise as to any such action or proceedings, or contemplated action or proceeding. The judges of all county courts not possessing increased jurisdiction, shall not recognize as entitled to practice in such county courts, any attorney who is a law partner or otherwise connected in business with such county judge, nor permit such law partner to make an appearance for clients, nor prosecute or defend any action or judicial proceeding in the county court, nor file any papers as attorney for any client in relation to any estate over which such county judge has jurisdiction. A willful violation of any of the foregoing provisions of this section shall be deemed willful misconduct in office.

§ 2. EMERGENCY.] Whereas, an emergency exists in that the law as it now stands fails to clearly define the duties of county judges with limited jurisdiction, this act shall take effect and be in force from and after its passage and approval.

Approved February 20, 1901.

COUNTY SEATS.

CHAPTER 57.

[S. B. 140.]

REMOVAL OF COUNTY SEATS.

AN ACT to Amend Section 1880 of the Revised Codes of North Dakota of 1899, Relating to the Procedure for the Location and Removal of County Seats.

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

§ 1. AMENDMENT.] That section 1880 of the Revised Codes of the state of North Dakota of 1899, be, and the same is hereby amended to read as follows:

§ 1880. COUNTY SEAT. REMOVAL OF.] Whenever the inhabitants of any county in this state desire to remove the county seat of the county from the place where it is fixed by law, or otherwise, to another place, they may present a petition to the board of county commissioners of their county praying such removal and that an election be held to determine whether or not such removal shall be made. Such petition must be verified by the affidavit of each of the signers thereof, stating that he is a resident of the county, a qualified elector therein, and that he personally signed his name thereto knowing the contents and purposes of the petition; provided, however, that where any city, town or village has been recognized as the county seat of any county for the period of more than ten years last past, and where all of the public business required by law to be transacted at the county seat has been transacted at said place during all of said period, said city, town or village shall be deemed to be the county seat of such county, and the county seat can be removed therefrom only in the manner now provided by law.

Approved March 5, 1901.

COUNTY SUPERINTENDENTS.

CHAPTER 58.

[H. B. 156.]

COUNTY SUPERINTENDENTS AND SCHOOL MONEYS.

AN ACT to Amend Section 715 of the Revised Codes of 1899, Requiring County Superintendents of Schools to Report all School Moneys to District Treasurers.

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

§ 1. AMENDMENT.] That section 715 of the Revised Codes of 1899 be amended so as to read as follows:

§ 715. APPORTIONMENT OF STATE TUITION FUNDS BY COUNTY SUPERINTENDENT.] Within thirty days, and not less than twenty days, after receiving the certificate of apportionment from the superintendent of public instruction and the certificate from the county auditor, as provided for in section 722 of this chapter, the county superintendent shall apportion separately to the several school districts, special districts, independent districts, and districts organized under special laws, which are entitled to any portion of the state tuition and special funds within the county in proportion to the number of children residing in each district, over six and under twenty years of age, excluding all married persons, as appears from the last enumeration authorized by law upon which the superintendent of public instruction made the apportionment to the several counties, and he shall immediately notify each district treasurer of the amount of tuition and all other school moneys in the county treasury due each district; and shall certify to the county treasurer and to the county auditor the amount 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.

Approved March 5, 1901.

COURTS.

CHAPTER 59.

[H. B. 119.]

GARNISHEE PROCEEDINGS IN JUSTICE COURT.

AN ACT to Amend Sections 5, 6 and 7 of chapter 82 of the Session Laws of 1897, Being Section 6676e, of the Revised Codes of 1899, Relating to Garnishee Procedure in Justice Court.

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

§ 1. AMENDMENT.] That sections 5, 6 and 7 of chapter 82 of the Session laws of 1897 being section 6676e, of the Revised Codes of 1899, be amended so as to read as follows:

§ 6676e. WHEN COURT MAY RENDER JUDGMENT.] If any garnishee having been duly summoned, unless he shall have demanded his witness fees and the same shall not have been tendered, shall fail to appear and answer or to file his affidavit as required by the garnishee summons, the court may render judgment against him as provided in section 5391. Provided, however, that a plaintiff electing to take issue upon the affidavit of the garnishee must at the time fixed for appearance and answer, file with the justice a written notice to that effect, whereupon said justice shall, unless the parties to said issue agree to at once go to trial thereon, adjourn said garnishee action for not less than three, nor more than ten days, and issue a notice to said garnishee of the time and place to which said action is adjourned, and that said issue will then and there be tried, which said notice shall be served upon said garnishee in the same manner as required for service of summons in justice court, at which adjourned time proceeding may be as provided in section 5393. If a defendant desire to defend the garnishment proceedings upon the ground that the indebtedness or property involved is exempt from execution, or any other ground contemplated in section 5395, such defense must be interposed at the time fixed for the garnishee's appearance. The justice may also order an inter-pleader as provided in section 5397, and adjourn said action for hearing thereof to a date not less than three, nor more than ten days after the date fixed for appearance and answer in said garnishee action, and issue a notice to the claimant described in said section 5397, of the time and place of said adjournment, and that he shall then and there defend his claim, if any, to the money or property held in garnishment, which said notice shall be served upon said claimant in the same manner as required for the service of summons in justice court.

Approved March 12, 1901.

CHAPTER 60.

[S. B. 8.]

APPEARANCE IN PROBATE COURT.

AN ACT to Amend Section 6219 of the Revised Codes, 1899, Relating to Effect of Appearance in Probate Court.

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

§ 1. AMENDMENT.] Section 6219, Revised Codes, is hereby amended so as to read as follows:

§ 6219. APPEARANCE, NOTICE OF ALL PROCEEDINGS.] A party who appears, or is held to appear, as hereinbefore prescribed, is deemed to have knowledge of each postponement, and all other acts done in the course of the proceeding from the commencement until the final disposition thereof, without further notice, except such as is imparted by the records of the court.

A party who appears as hereinbefore prescribed, may waive in writing the service of any further citation, notice or papers in the proceeding and thereafter no such citation, notice or paper need be served on him.

§ 2. EMERGENCY.] Whereas an emergency exists in this that there is no provision of law authorizing parties in probate proceedings to waive service of citation, notice and papers, this act shall take effect and be in force from and after its passage and approval.

Approved February 6, 1901.

CHAPTER 61.

[S. B. 61.]

ACTIONS.

AN ACT to Amend Section 6633 of Revised Codes of 1899, Relating to Commencement of Actions in Justice Court.

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

§ 1. AMENDMENT.] That section 6633 of the Revised Codes of 1899, relating to commencement of actions in justice court be amended and re-enacted to read as follows:

§ 6633. ACTIONS, WHERE COMMENCED AND TRIED.] The county in which a civil action in a justice court must be commenced and tried is as follows:

1. An action of forcible detainer or for trespass or other injury to real property, or an action to recover specific personal property, or to foreclose or enforce a lien upon chattels or trespassing animals must

be brought in the county in which the subject of the action or property upon which the lien is claimed is situated.

2. An action to recover a penalty or forfeiture prescribed by statute or to recover of a public officer, or his deputy, agent or surety for a violation of official duty or any act done by color of his office must be brought in the county in which the cause of action arose.

3. Every other action must be tried in the county in which the original defendant, or one of several original defendants, resides or is served with summons, or in which a warrant of attachment is levied on property of the defendant except as provided in the next subdivision.

4. An action upon a contract stipulating for payment at a particular place may be brought in the county in which such place is situated; provided, that defendant or defendants referred to in this subdivision shall be construed to mean the original debtor or debtors.

Approved March 12, 1901.

CHAPTER 62.

[Substitute for S. B. 4.]

CHAMBERS OF JUDGE OF SEVENTH JUDICIAL DISTRICT.

AN ACT Repealing Section 410 of the Revised Codes of 1899, Relating to Chambers of the District Judge of the Seventh Judicial District.

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

§ 1. REPEAL.] Section 410 of the Revised Codes of 1899, relating to chambers of the district judge of the Seventh judicial district, be, and the same is hereby repealed.

Approved February 20, 1901.

CHAPTER 63.

[S. B. 29.]

DIRECTING JUDGMENTS.

AN ACT Authorizing District Courts and Also the Supreme Court of the State to Direct Judgment to be Entered in Certain Cases Instead of Granting a Motion For a New Trial.

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

§ 1. JUDGMENTS. DISTRICT AND SUPREME COURTS TO DIRECT.] In all cases where at the close of the testimony in the case tried, a motion is made by either party to the suit requesting the trial court to direct a verdict in favor of the party making such motion, which motion was

denied, the trial court on motion made that judgment be entered notwithstanding the verdict, or on motion for a new trial, shall order judgment to be entered in favor of the party who was entitled to have a verdict directed in his or its favor; and the supreme court of the state on appeal from an order granting or denying a motion for a new trial in the action in which such motion was made, or upon a review of such order or an appeal from the judgment, may order and direct judgment to be entered in favor of the party who was entitled to have such verdict directed in his, or its favor, whenever it shall appear from the testimony that the party was entitled to have such motion granted.

§ 2. EMERGENCY.] Whereas, an emergency exists in this, that there is now no adequate law on this subject, this act shall take effect and be in force from and after its passage and approval.

Approved March 12, 1901.

COVENANTS OF WARRANTY.

CHAPTER 64.

[S. B. 118.]

COVENANTS OF WARRANTY.

AN ACT Concerning Covenants of Warranty.

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

§ 1. WARRANTY. HIGHWAYS.] That no covenants of warranty shall be considered as broken by the existence of a highway or railway upon the land conveyed, unless otherwise particularly specified in the deed.

Approved March 12, 1901.

FUNDS.

CHAPTER 65.

[H. B. 7.]

DEPOSIT OF COUNTY FUNDS.

AN ACT to Amend Section 1941 of the Revised Codes of the State of North Dakota, Relating to the Presentation and Acceptance of Proposals for the Deposit of County Funds, and the Bonds of County Depositories.

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

§ 1. AMENDMENT.] Section 1941 of the Revised Codes is hereby amended to read as follows:

§ 1941. PROPOSALS. ACCEPTANCE OF BONDS.] Such proposals shall be presented to the board at such meetings, and then, but not until then, shall be opened by the county auditor in the presence of the board, and the board shall thereupon proceed to accept the proposal of the bank or banks offering the highest rate of interest not inconsistent herewith, subject to the filing of a satisfactory bond as hereinafter provided, the amount of which bond shall then and there be fixed by the board. Before any bank shall be designated as such depository it shall submit to the board for its approval a bond payable to the county, conditioned for the safe keeping and repayment of any and all funds deposited in such bank, which bond shall be signed by not less than five freeholders of the county as sureties; such bond to be in the sum required by the board, but in no case less than double the probable amount of funds to be deposited in such bank. If at any time the amount of funds on deposit in any of such depositories shall exceed one-half of the amount named in such bond, it shall be the duty of the board at its next regular meeting thereafter to require from such depository an additional bond in a sum not less than twice the amount of such excess. Such bond shall be approved by the board, and the approval thereof indorsed thereon by the chairman of the board and by him deposited with the county auditor; and any bank whose bond shall have been so approved shall thereupon be designated by the board as a county depository and shall continue as such until such time as the board shall readvertise for bids as aforesaid. If the board fails or refuses to approve any such bond, the same may be presented to the judge of the district court, upon three days' notice to the county auditor, who shall proceed to hear and determine the sufficiency of such bond, and may approve or disapprove the same as the facts warrant. If he approves such bond said bank shall be declared a public depository as aforesaid. The sureties on such bond shall be re-

quired to justify as required by law in arrest and bail proceedings, provided, however, that in lieu of such personal bond, the board of county commissioners may require such bank or banks to file a surety company bond for a sum equal to the amount of funds such bank may receive according to this law. If at any time the amount of funds on deposit in any such depositories shall exceed the amount named in such surety company bond, it shall be the duty of the board at its next regular meeting thereafter to require from such depositories an additional surety bond in the sum of not less than the amount of such excess. Such surety company bonds shall be approved as provided by law.

Approved March 13, 1901.

DEAF AND DUMB ASYLUM.

CHAPTER 66.

[S. B. 184.]

INDEBTEDNESS OF DEAF AND DUMB ASYLUM.

AN ACT Repealing Section 966a, Revised Codes 1899, Relating to Issuing Certificates of Indebtedness to Provide for the Equipment of the Deaf and Dumb Asylum.

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

§ 1. REPEAL.] Section 966a, Revised Codes 1899, is hereby repealed.

· § 2. EMERGENCY.] Whereas, an emergency exists for the reason that the section mentioned is inoperative, and shall be repealed at once, therefore, this act shall take effect and be in force on and after its passage and approval.

Approved March 6, 1901.

DEFENDANTS.

CHAPTER 67.

[S. B. 64.]

DEFENDANTS.

AN ACT to Amend Section 5260, Revised Codes of 1899, Relating to the Manner of Commencing Civil Actions.

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

§ 1. AMENDMENT.] Section 5260, Revised Codes, is hereby amended so as to read as follows:

§ 5260. WHEN DEFENDANT PERMITTED TO DEFEND.] The defendant upon whom service by publication is made, or his representatives, on application and sufficient cause shown at any time before judgment, must be allowed to defend the action; and, except in an action for divorce, the defendant upon whom service by publication is made, or his representatives, upon making it appear to the satisfaction of the court by affidavit (stating the facts), that he has a good and meritorious defense to the action, and that he had no notice or knowledge of the pendency of the action so as to enable him to make application to defend before the entry of judgment therein, and upon filing an affidavit of merits, may, in like manner, be allowed to defend after judgment, or at any time within one year after notice or knowledge thereof, and within three years after its entry, and on such terms as may be just; and if the defense is successful, and the judgment, or any part thereof, has been collected or otherwise enforced, such restitution may thereupon be compelled as the court directs; but the title to property sold under such judgment to a purchaser in good faith shall not be thereby affected. Any such defendant, who shall have received a copy of the summons and complaint in the action, mailed to him as provided in section 5256, or upon whom the summons and complaint shall have been personally served out of the state, as provided in section 5257, shall be deemed to have had notice of the pendency of the action, and of the judgment entered therein.

Approved March 11, 1901.

DEPOSITORIES FOR COUNTY FUNDS.

CHAPTER 68.

[S. B. 123.]

DEPOSITORIES FOR COUNTY FUNDS.

AN ACT to amend Section 1942 of the Revised Codes of 1899, Relating to Depositories for County Funds.

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

§ 1. AMENDMENT.] That section 1942 of the Revised Codes, 1899, be amended so as to read as follows:

§ 1942. EQUAL BIDDERS. DEPOSITORY, HOW DETERMINED.] When two or more banks in the same county proposing to become depositories, offer the same rate of interest, it shall be the duty of the board to select impartially as many of such bank, as depositories as offer ample security for such deposit. In estimating the value of the security offered by any proposed depository the capital, surplus, and general credit of the bank shall be taken into consideration, as well as the bonds proposed to be given.

Approved March 2, 1901.

DIPPING TANKS.

CHAPTER 69.

[H. B. 200.]

DIPPING TANKS.

AN ACT Authorizing the County Commissioners to Build and Equip Dipping Tanks at County Expense.

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

§ 1. DIPPING TANKS.] The county commissioners of each county may, upon the petition of fifty electors and freeholders of such county, cause to be built and equipped at the principal shipping point for live stock in said county, a public dipping tank where all the live stock of such county may be dipped as a preventative of contagious, infectious and epidemic diseases.

§ 2. PLANS AND SPECIFICATIONS. STATE VETERINARIANS TO FURNISH.] The state veterinarians shall furnish each board of county commissioners with plans and specifications for the construction of such dipping tank whenever the commissioners shall have been petitioned as herein provided. It shall also be the duty of the state veterinarian to furnish rules and regulations necessary for the proper use of such dipping tanks by the owners of stock in their respective counties.

§ 3. EXPENSE OF.] The expense of building dipping tanks under the provisions of this act shall be paid out of the general fund of the county wherein such tank shall be built.

§ 4. EMERGENCY.] Whereas, there will be a large number of cattle and sheep shipped into this state before July 1st next, it is important that they be dipped to prevent the introduction of disease, therefore this act shall take effect from and after its passage and approval.

Approved March 13, 1901.

DIVORCE.

CHAPTER 70.

[H. B. 208.]

RELATING TO DIVORCEMENT.

AN ACT to Amend Section 2736 of the Revised Codes of 1899, Relating to the Dissolution of Marriage.

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

§ 1. AMENDMENT.] That section 2736 of the Revised Codes of 1899 be amended so as to read as follows:

§ 2736. MARRIAGE. HOW DISSOLVED.] Marriage is dissolved only

1. By the death of one of the parties; or
2. By judgment of a court of competent jurisdiction decreeing a divorce of the parties.

The effect of a judgment decreeing a divorce is to restore the parties to the state of unmarried persons, except that neither party to a divorce may marry within three months after the time such decree is granted.

Approved March 7, 1901.

CHAPTER 71.

[S. B. 73.]

CAUSES FOR DIVORCE.

AN ACT Entitled "An Act to Amend Sections 2737 and 2743 of the Revised Codes of 1899, Relating to Dissolution of Marriage."

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

§ 1. AMENDMENT.] That section 2737 of the Revised Codes of 1899, relating to causes for divorce, be amended so as to read as follows:

§ 2737. CAUSES FOR DIVORCE.] Divorces may be granted for any of the following causes:

1. Adultery.
2. Extreme cruelty.
3. Willful desertion.
4. Willful neglect.
5. Habitual intemperance.
6. Conviction of felony.

§ 2. AMENDMENT.] That section 2743 of the Revised Codes of 1899, relating to duration of offenses as grounds for divorce, be amended so as to read as follows:

§ 2743. DURATION OF OFFENSES AS GROUNDS FOR DIVORCE.] Willful desertion, willful neglect or habitual intemperance must continue for one year before either is a ground for a divorce.

Approved February 15, 1901.

ESTATES OF DECEDENTS.

CHAPTER 72.

[S. B. 36.]

ESTATES OF DECEDENTS.

AN ACT to Provide for the Settlement of Estates of Decedents.

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

§ 1. ESTATES OF DECEDENTS. HOW SETTLED.] An executor or administrator may render a full and final account and report of his administration to the County Court for a final settlement, at any time after the time limited in the notice to creditors for the presentation of claims against the estate; and if the estate is ready for distribution, the Court may thereupon proceed to a settlement of such final account and the distribution and settlement of the estate; provided, that no final decree of distribution shall be entered until after the expiration of one month after the rendering and filing of such final account and report.

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

§ 3. EMERGENCY.] Whereas, doubt exists as to the time at which decedents' estates may be settled; this act shall take effect and be in force from and after its passage and approval.

Approved March 12, 1901.

EXTRAORDINARY EXPENDITURES.

CHAPTER 73.

[S. B. 195.]

EXTRAORDINARY EXPENDITURES.

AN ACT to Amend Section 1311 of the Revised Codes, 1899, Relating to Extraordinary Expenditures.

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

§ 1. AMENDMENT.] That section 1311 of the Revised Codes of 1899, be, and the same hereby is amended to read as follows:

§ 1311. EXTRAORDINARY EXPENDITURE TO BE AUTHORIZED BY VOTE.] If the county commissioners deem any expenditure necessary greater in amount than can be provided for by the annual tax, they shall require a vote of the county thereon, either at a general election, or one called especially for the purpose. In either case four weeks' notice of said election shall be given in the official newspapers of the county, and the notice shall specify the amount to be raised, and the precise purpose for which it is to be expended; and if a majority of the votes cast authorize the tax, the county commissioners shall authorize the same to be levied and collected in the same manner as the annual tax, and if possible, at the same time; provided, however, that no new assessment shall be made for any special tax; provided, further, that whenever in the opinion of the board of county commissioners of any county, or a majority thereof, it shall be deemed for the best interests of said county that any land adjoining the court house is, or shall thereafter be necessary for the enlargement of said court house, or the county jail of said county, or for the purpose of beautifying such county buildings, or for the prevention of other buildings in such close proximity to said court house and jail that the transaction of public business would be thereby discommoded or rendered inconvenient, then said board of county commissioners, or a majority thereof, shall have power and authority, and they hereby are vested with such power and authority, to purchase such land so adjoining said court house, without submitting such question to a vote of the people, and the money required for the purchase of such additional land hereinbefore provided for shall be raised as provided the raising of funds for general county purposes.

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

Approved March 13, 1901.

EMINENT DOMAIN.

CHAPTER 74.

[S. B. 205.]

ASSESSMENT OF DAMAGES UNDER THE LAW OF EMINENT DOMAIN.

AN ACT to Amend Section 5961 of the Code of Civil Procedure, and to Facilitate the Assessment of Damages Under the Law of Eminent Domain, and to Regulate Procedure in Actions Brought Thereunder.

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

§ 1. AMENDMENT.] That section 5961 of the Revised Codes of the state of North Dakota, edition of 1899, be and the same is hereby amended so as to read as follows:

§ 5961. PROCEEDINGS BY CIVIL ACTIONS.] All proceedings under this chapter must be prosecuted by civil action brought in the district court of the county in which the property or some part thereof is situated.

1. FORM OF SUMMONS. WHEN SERVED.] The summons shall be in the form prescribed by section 5248 of the Revised Codes, except that the defendant shall be required to serve his answer to the complaint within fifteen days after service of summons upon him. In all cases in which personal service is made upon the defendant, a copy of the complaint shall be attached to and served with the summons.

2. SERVICE BY PUBLICATION.] Service of the summons by publication may be made by publishing the same two times, once in each week for two successive weeks in a newspaper published in the county in which the action is pending, if a newspaper is published in said county, and if no newspaper is published in such county, then in a newspaper published at the seat of government of this state.

3. COPY OF SUMMONS SERVED THROUGH MAILS.] A copy of the summons and complaint must within two days after the first publication of the summons be deposited in some post office in this state, postage prepaid, and directed to the defendant, to be served at his place of residence, unless the affidavit for publication states that the residence of the defendant is unknown.

4. SERVICE COMPLETE IN 14 DAYS.] Service by publication is complete upon the expiration of fourteen days after the first publication of the summons, or in case of personal service of the summons and complaint upon the defendant out of the state, upon the expiration of ten days after the date of such service.

5. FILED WITH CLERK 4 DAYS PREVIOUS.] Note of issue herein

shall be filed with the clerk four days before the date fixed for the trial of the action.

6. **MAY DEMAND A JURY.]** Whenever in an action brought under the provisions of chapter 35 of the Code of Civil Procedure, an issue for the jury is formed whereby it appears that the attendance of a jury will be necessary to assess the damages in such action as provided by law, the plaintiff therein may apply to the judge of the district court where the same is pending for an order requiring a jury to be summoned to assess the damages in such action, as provided by law. Thereupon the judge shall forthwith issue an order to the clerk of said court requiring a jury to be summoned, and in such order shall specify the number of jurors to be drawn, the place where they are to appear, and the time when they shall come, which shall be not less than eight days nor more than thirty days from the date thereof. Thereupon the clerk shall proceed to draw the number of jurors required by such order, in accordance with the Revised Codes, relating to the drawing of petit jurors. After the names have been so drawn, the sheriff of said county shall forthwith certify to the clerk his legal fees for the service of the venire upon the jurymen who have been drawn, which fees shall be those provided by law to be paid to him for the summoning of a jury under a special venire; whereupon the clerk shall forthwith notify the plaintiff of the amount of said fees, and upon the payment thereof to the clerk, to be paid by him to the sheriff, said clerk shall issue the venire forthwith, and the same shall forthwith be served by the sheriff; the plaintiff shall give sufficient surety to be approved by the clerk of said court for the payment of all jury fees and mileage; provided, however, such payment shall not be required to be made if the plaintiff be either the state of North Dakota, or any city, municipality, town, village, school district or other political subdivision, in all of which cases the sheriff's fees for summoning the jury shall be paid by the county as provided by law.

7. **SERVE NOTICE 1 DAY AFTER SUMMONING JURY.]** Within one day after entry of the order for summoning the jury, the plaintiff shall serve notice of trial upon the opposite party, or parties, to such issue, specifying as the date of trial of said cause, the time fixed by such order for the meeting of such jury.

8. **COURT SIT AT. A SPECIAL TERM.]** The court shall sit at a special term to hear the case according to the law and practice of the court, and shall have the same power to complete the jury as is now provided by the Revised Codes of North Dakota, and the pay of such jurymen and the penalty for failure or refusal to appear shall be the same as now provided by sections 2096 and 459 of the Revised Codes.

9. **CAN TRY AT AN ADJOURNED TERM.]** Nothing in this act contained shall prevent the trial of such case at any general, or special, or adjourned term of district court, held, or called in the county in which such action is, or may be pending, and such action may be tried at any such term; provided, further, if issue be not joined prior to the commencement of said regular, special or adjourned term, the plaintiff may

nevertheless require said cause to be tried on such day thereof as the court may order; but plaintiff shall serve upon the opposite party, or parties, a seven days' notice of trial, specifying the date of trial, as fixed by order of the court.

§ 2. DOES NOT CHANGE METHOD OF PROCEDURE.] This act shall not be held or construed to alter or change the method of procedure in any action, or actions, save those brought under chapter 35 of the Code of Civil Procedure of North Dakota.

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

Approved March 13, 1901.

CHAPTER 75.

[H. B. 71.]

PRIVILEGES IN RIGHT OF EMINENT DOMAIN.

AN ACT to Amend Section 5958 of the Revised Codes, Enumerating What Property May be Taken in the Exercises of the Right of Eminent Domain.

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

§ 1. AMENDMENT.] Section 5958 of the Revised Codes is hereby amended so as to read as follows:

[WHAT PROPERTY MAY BE TAKEN. THE PRIVATE PROPERTY WHICH MAY BE TAKEN UNDER THIS CHAPTER INCLUDES:]

1. All real property belonging to any person.
2. Lands belonging to this state; or to any county, incorporated city, village or town not appropriated to some public use.
3. Property appropriated to public use; but such property shall not be taken unless for a more necessary public use than that to which it has been already appropriated; and whenever a right of way shall have been taken and the person, firm or corporation taking such right of way shall fail or neglect for five years to use the same for the purpose to which it had been appropriated, the attempt by another person, firm or corporation to appropriate such right of way shall be considered a more necessary public use.
4. Franchises for toll roads, toll bridges, ferries and all other franchises; but such franchises shall not be taken unless for free highways, railroads or other more necessary public use.
5. All rights of way for any and all the purposes mentioned in section 5956 and any and all structures and improvements thereon, and the lands held or used in connection therewith, shall be subject to be connected with, crossed or intersected by any other right of way or structure thereon. They shall also be subject to a limited use in

common with the owner thereof when necessary; but such uses, crossings, intersections and connections shall be made in the manner most compatible with the greatest public benefit and the least private injury.

6. All classes of private property not enumerated may be taken for public use, when such taking is authorized by law.

Approved March 6, 1901.

EXEMPTIONS.

CHAPTER 76.

[H. B. 24.]

RELATING TO EXEMPTIONS.

AN ACT Entitled an Act to Amend Sections 324, 328 and 333 of the Code of Civil Procedure of the State of North Dakota, Being Sections 5518, 5522 and 5528 of the Revised Codes of 1895 of the State of North Dakota, Relating to Exemptions.

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

§ 1. AMENDMENT.] That sections 324, 328 and 333 of the code of civil procedure of the state of North Dakota, being sections 5518, 5522 and 5528 of the Revised Codes of 1895 of the state of North Dakota, are hereby amended to read as follows:

§ 5518. ADDITIONAL EXEMPTIONS.] In addition to the property mentioned in the preceding section, the head of the family may, by himself or his agent, select from all other of his personal property, not absolutely exempt, goods, chattels, merchandise, money or other personal property, not to exceed in the aggregate one thousand dollars in value, which is also exempt and must be chosen and appraised as hereinafter provided.

§ 5522. OATH AND DUTIES OF APPRAISERS.] The three appraisers so selected must take and subscribe an oath before the sheriff or other officer, to be attached to the inventory of appraisement, that they will truly, honestly and impartially appraise the property of the debtor. The property must be appraised at the actual value of the several articles at the place where they are situated as near as can be determined, and must be set down in an inventory by articles or by lots, when definitely descriptive, with the value opposite. From the appraisement so made, if over the amount of one thousand dollars, the debtor, his agent or attorney, may select the amount in value of one thousand dollars, or the alternative in order of each class, leaving the remainder, if any, subject to legal process.

§ 5528. PARTNERSHIP CAN CLAIM BUT ONE EXEMPTION.] A partnership firm can claim but one exemption of one thousand dollars in value or alternative property, when so applicable, instead thereof, out of the partnership property. All partnership property claimed as exempt shall constitute a part of the exemptions of the several partners, the same being divided in proportion to the interests of the partners in the firm assets, and in no case shall the aggregate exemptions of the several partners exceed the amount which would have been allowed to them if the partnership had not existed.

§ 2. PRIOR DEBTS NOT EXEMPTED.] Provided, however, that the provisions of this act shall not apply to or affect any debt contracted prior to the passage and approval of this act.

Approved March 12, 1901.

CHAPTER 77.

[S. B. 23.]

EXEMPTIONS IN CERTAIN CASES.

AN ACT to Amend Section 5526, Revised Codes of North Dakota, Relating to Exemptions in certain cases:

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

§ 1. AMENDMENT. Section 5526, Revised Codes, is hereby amended to read as follows:

§ 5526. CASES IN WHICH ONLY ABSOLUTE EXEMPTIONS ARE ALLOWED.] No personal property, except absolute exemptions, shall be exempt from execution or attachment in an action for laborers' or mechanics' wages, or for a debt incurred for property obtained under false pretenses; and no personal property shall be exempt from such process in an action for the collection of the bills of a legally practicing physician or nurse for professional service or medicine, or in an action for the collection of a bill for board, medicine or attendance furnished patients at any hospital in this state, except absolute exemptions and household and kitchen furniture, stoves and two cows, the value of which, exclusive of absolute exemptions, shall not exceed five hundred dollars, which value in case of dispute shall be determined by appraisers to be selected in accordance with the provisions of section 5521.

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

Approved Feb. 27, 1901.

EXECUTORS AND ADMINISTRATORS.

CHAPTER 78.

[S. B. 207.]

REQUISITE QUALIFICATIONS OF EXECUTORS, ADMINISTRATORS AND GUARDIANS.

AN ACT to Amend Section 6346 of the Revised Codes of 1899, Being Section 21 of Chapter 111 of the Laws of 1897, Providing the Requisites for Qualification of Executors, Administrators and Guardians.

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

§ 1. AMENDMENT.] That section 6346 of the Revised Codes of 1899, being section 21 of chapter 111, of the laws of 1897, be, and the same is hereby amended so as to read as follows:

§ 6346. EXECUTOR, ADMINISTRATOR, GUARDIAN. WHO COMPETENT FOR.] No person under twenty-one years of age or other person who is incapable by law of making a contract, or has been convicted of a felony, is competent to serve as executor, administrator or guardian; and no person shall be appointed as such, who was a partner of the decedent at the time of his death, or is by the court found unfit to discharge the duties of the trust by reason of drunkenness, improvidence, mental or physical infirmity, or lack of integrity. A married woman must not be appointed administratrix or guardian, nor shall the husband of the widow of a deceased man be appointed guardian of such deceased man's children; provided, however, that the court may in its discretion, upon the probate of a foreign will, issue letters testamentary to the executor named in the will.

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

§ 3. EMERGENCY. WHEN TO TAKE EFFECT.] Whereas, an emergency exists in that there is now no provision of law applicable to cases such as are provided for in the preceding section 1, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 12, 1901.

CHAPTER 79.

[S. B. 58.]

SALE OF REAL ESTATE BY EXECUTORS.

AN ACT to Amend Section 6435 of the Revised Codes of 1899, the Same Being Section 27 of Chapter 111 of the Laws of 1897, Relating to Sales of Real Estate by Executors and Administrators.

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

§ 1. AMENDMENT.] That section 6435 of the Revised Codes of 1899, the same being section 27 of chapter 111 of the session laws of 1897, be amended to read as follows:

§ 6435. REAL ESTATE SOLD, WHEN AND HOW.] 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 when 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 executor or administrator may also sell any real estate as well as personal property of the estate in his hands and chargeable for that purpose upon the order of the county court; and an application for the sale of real property may also embrace the sale of personal property. To obtain an order for the sale of real property the executor or administrator must present a verified petition to the county court, 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 determined; 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 approved, and an estimate of what will or may accrue during the administration; the facts showing the sale to be for the best interests 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 interests, or in which the estate has acquired any interests, and the condition and value thereof; the names of the legatees and devisees, and the heirs of the decedent, so far as known to the petitioner. If any of the matters herein 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 is stated in the decree. If it appears to the court from such petition, that it is necessary to sell the whole or some part of such real estate, for the purpose and reasons mentioned in this section, or any of them, or that such sale is for the best interests of the estate, such petition must be filed and an

order thereupon made directing all persons intersted in the estate to appear before the court at a time and place specified, not less than four, and not more than ten weeks from the time of making such order, to show cause why an order should not be granted to the executor or administrator to sell so much of the real estate of the decedent as is necessary, or for the best interests of the estate.

§ 2. EMERGENCY.] Whereas, an emergency exists in that there is no provision of law for the sale of real estate by executors or administrators on the grounds that it is for the best interests of the estate, and the persons interested in the property to be sold, this act shall take effect upon its passage and approval.

Approved Feb. 15, 1901.

ELECTRIC LINE.

CHAPTER 80.

[H. B. 202.]

ELECTRIC LINE.

AN ACT for the Construction of an Electric Line From the Penitentiary to the Capitol Building in the City of Bismarck.

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

§ 1. ELECTRIC LINE. CONSTRUCTION OF.] The board of trustees of public property are hereby authorized and empowered, in the name of the state, to purchase or otherwise acquire, according to law, a right-of-way from the penitentiary at Bismarck to the state capitol at Bismarck, North Dakota, upon the shortest and most feasible route on which to construct, or cause to be constructed, a line of electric wires, said wires to connect the electric plant at the penitentiary to the state capitol building at Bismarck, North Dakota, in a manner which said board may direct, for the purpose of lighting said capitol building.

§ 2. LIGHTS TO BE PLACED IN CAPITOL.] Said board of trustees of public property shall place, or caused to be placed, in said state capitol building, such lights as are necessary to suitably light said building.

§ 3. MATERIAL TO BE PURCHASED.] The state board of trustees of public property are hereby authorized and empowered in the name of the state, to purchase or otherwise acquire, according to law, such materials as are necessary and suitable for the proper construction and equipment of said electric line, and shall proceed at once upon the passage and approval of this act to construct, or cause to be constructed, said electric line, as specified herein.

§ 4. TRUSTEES. BOARD OF TO MAKE REPORT.] The board of trustees of public property upon the completion of said line with its necessary equipments, shall submit an itemized report together with usual vouchers, showing:

1. Kind of material, from whom purchased, and what price.
2. How many days labor done and by whom.
3. If work done by convict labor, so state, in such case mention person in charge only.
4. Amount paid for right-of-way, if any.

The state auditor finding such report correct, shall draw his warrant for such amount as he finds to be due, against such appropriation, and upon approval thereof by the governor, the state treasurer is hereby directed to pay such warrant from the general fund of the state.

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

§ 6. EMERGENCY.] Whereas, an emergency exists, in that there is now no law providing for the construction of such a line, therefore this act shall take effect and be in force immediately upon its passage and approval.

Approved March 12, 1901.

ELECTIONS.

CHAPTER 81.

[S. B. 180.]

ELECTIONS.

AN ACT to Amend Section 527 of the Revised Codes of 1899, Relating to Abstract of Votes. Certificate of Election. Publication of Returns.

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

§ 1. AMENDMENT.] Section 527 is hereby amended to read as follows:

§ 527. ABSTRACT OF VOTES. CERTIFICATE OF ELECTION. PUBLICATION OF RETURNS.] On the fifteenth day after the close of any election, or as soon as the returns are received, the county auditor shall call to his assistance a majority of the county commissioners of the county, or the county treasurer, county judge and one county commissioner, and none of the persons so called shall be a candidate for office, unless there is not sufficient of such officers who are not candidates, and shall

proceed to open such returns and make abstracts of votes in the manner following: From the certified statements prepared by the different inspectors of election in the various precincts; the abstract of votes for member of congress, governor, state auditor, commissioner of insurance, commissioner of agriculture and labor, state treasurer, secretary of state, attorney general, commissioners of railroads, superintendent of public instruction and lieutenant governor shall be on one sheet; the abstract of votes for members of the legislative assembly shall be on one sheet; the abstract of votes for county and precinct officers shall be on one sheet; and it shall be the duty of the county auditor immediately to make out a certificate of election to each of the persons having the highest number of votes for members of the legislative assembly, county and precinct officers respectively, and to deliver such certificate to the person entitled thereto on his making application to the county auditor therefor; provided, that when a tie shall exist between two or more persons for the senate and (or) house or representatives, the county auditor shall give notice to the sheriff of the county, who shall immediately advertise another election, giving at least ten days' notice. It shall be the duty of the county auditor of each county, on receipt of the returns of any election, to make out his certificate, stating therein the compensation to which the judges and clerks of election may be entitled for their services, and lay the same before the board of county commissioners at their next session, and the said board shall order the compensation aforesaid to be paid out of the county treasury. And immediately after canvassing the returns and making the abstract of votes as provided in this section, the county auditor shall make a certified copy of each abstract and forward it to the secretary of state, and also cause to be published in the official newspapers of the county, in tabular form, the vote by precincts for each officer and proposition voted for at said election; such publication to be paid for at a rate not exceeding the rate paid for publishing county commissioners' proceedings. If the county auditor is a candidate for office he shall take no part in the canvass, but shall act as clerk of such board of canvassers, and the two officers called to the assistance of the county auditor to make such canvass, shall call to their assistance a justice of the peace, and it shall thereupon be their duty at once to attend and canvass such returns as provided by law.

Approved March 12, 1901.

EMBEZZLEMENT.

CHAPTER 82.

[S. B. 101.]

EMBEZZLEMENT.

AN ACT to Amend Section 7464 of the Revised Codes of North Dakota, 1899, Relating to Embezzlement.

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

§ 1. AMENDMENT.] That section 7464 of the Revised Codes of North Dakota, of 1899, be amended to read as follows:

§ 7464. FRAUDULENT APPROPRIATION BY TRUSTEE.] If any person being a trustee, banker, merchant, broker, attorney, agent, assignee in trust, receiver, executor, administrator or collector, or being otherwise entrusted with, or having in his control, property for the use of any other person, or for any public or benevolent purpose, fraudulently appropriates it to any use or purpose not in the due and lawful execution of his trust, or secretes it with a fraudulent intent to appropriate it to such use or purpose, he is guilty of embezzlement; provided, however, that it shall be no defense to a prosecution under this section that the accused was entitled to a commission out of the money or property appropriated as compensation for collecting or receiving the same for, or on behalf of the owner thereof, or that the money or property appropriated was partly the property of another and partly the property of the party accused; provided, further, that it shall not be embezzlement for any bailee, servant, attorney, agent, clerk, trustee, or any other person mentioned in this section to retain his collection fee or charges on the collection made by him.

Approved March 7, 1901.

ENGROSSING AND ENROLLING.

CHAPTER 83.

[H. B. 164.]

ENGROSSING AND ENROLLING BILLS.

AN ACT Providing for the Engrossing and Enrolling of Bills For the Legislative Assembly by Contract.

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

§ 1. BILLS OF LEGISLATIVE ASSEMBLY. ENGROSSING AND ENROLLING OF, BY CONTRACT.] The secretary of state shall, not less than sixty nor more than seventy-five days, before the meeting of the legislative assembly in regular session, give notice of advertising for three successive weeks, in a newspaper at the seat of government, that sealed bids will be received for the engrossing and enrolling of all bills passed by each house of the legislative assembly. The work to be done at a fixed price per folio, the engrossing to be done on typewriter, enrolling to be done with pen and ink. The services to be performed under the direction, and in the time set by, and to the satisfaction of, the committees of the senate and house of representatives, or their agent. Upon the day set in the advertisement, which shall not be less than thirty days before the meeting of the legislative assembly, the bids shall be opened by a board consisting of the governor, secretary of state and state auditor.

BIDS MUST BE ACCOMPANIED BY CERTIFIED CHECK.] No bids shall be considered unless accompanied by a certified check in a sum to be named by the Secretary of State, such check to be security that the successful bidder shall enter into a contract, and shall give a bond, with sureties to be approved by said board before mentioned, for the proper performance of the work. No bid shall be considered from a person not a bona fide resident of the state. Upon opening of the bids the board shall award the contract to the lowest responsible bidder and enter into a contract with him for the performance of the work, subject to the conditions herein above set forth; provided, further, that nothing in this act shall prevent the awarding of separate contracts for the engrossing and enrolling provided for herein, if deemed advantageous to the state by such board.

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

Approved March 6, 1901.

EDUCATION.

CHAPTER 84.

[S. B. 74.]

EDUCATION.

AN ACT to Amend Sections 643, 681 and 682 of the Revised Codes of 1899, Relating to Education.

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

§ 1. AMENDMENT.] That section 643 of the Revised Codes of 1899 be amended so as to read as follows:

§ 643. MEETINGS WITH SCHOOL OFFICERS.] He may arrange for meetings with school officers at designated times and places, due notice of which has been given, for the purpose of inspecting the district records and instructing in the manner of keeping the same, and of preparing the reports of district officers. He shall visit the officers of the several school districts as often as may be necessary to secure the correct keeping of the records. He shall, on or before the first day of April in each year, prepare and furnish to the several assessors of the county a correct sectional map of their respective districts, showing the boundaries and names or numbers of all school districts therein; provided, also, that he may convene the presidents of school boards in his county, or such representative of each school board as the president shall appoint, in case he cannot attend personally, for the purpose of discussing plans and methods for the improvement and general care of the schools; provided, further, that such general meeting shall not occur more than once in each year.

§ 2. AMENDMENT.] That section 681 of the Revised Codes of 1899, be amended so as to read as follows:

§ 681. MEETINGS OF BOARD. FEES.] The board shall, on the second Tuesday in January, April, July and October of each year, hold regular meetings for the transaction of business at such hour and place as may be fixed by the board. A special meeting may be held upon the call of the president, 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 board shall be paid the sum of eight dollars per annum, less two dollars for each regular meeting which he fails to attend; provided, that the president, or such person as he may appoint to represent the board, shall receive ten cents a mile for the distance necessarily traveled in attending general meetings of the presidents of school boards convened by the county superintendent of schools, and

also a salary of two dollars ; but the total sum of such salary and mileage shall not exceed five dollars in attending any one meeting.

§ 3. AMENDMENT.] That section 682 of the Revised Codes of 1899, be amended so as to read as follows :

§ 682. DUTIES OF THE 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 chapter. It shall also be the duty of the president to attend such general meetings of the presidents of school boards as may be convened by the county superintendent of schools. When the president cannot attend such meetings personally he shall appoint a member of the school board, or the school clerk or school treasurer, to represent the school board at such general meeting.

Approved March 5, 1901.

CHAPTER 85.

[H. B. 43.]

RELATING TO EDUCATION.

AN ACT to Amend Sections 736, 740, 741, 742 and 743 of the Revised Codes, 1899, Relating to Education.

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

§ 1. AMENDMENT.] That sections 736, 740, 741, 742 and 743 of the Revised Codes, 1899, relating to education, be and the same are hereby amended to read as follows :

§ 736. EXAMINATION FOR TEACHERS' CERTIFICATES.] The superintendent of public instruction 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. He shall examine, mark, and file, or cause to be examined, marked, and filed, all answer papers submitted by candidates for first, second and third grade county certificates, which answer papers shall be forwarded by the county superintendent immediately after the close of each examination to the superintendent of public instruction. He may appoint such clerical assistants as he may deem necessary, but the expenditures therefor shall not exceed in the aggregate the sum annually collected from applicants for county certificates for this purpose.

§ 740. EXAMINATION OF TEACHERS BY COUNTY SUPERINTENDENT.] The county superintendent shall hold a 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 March, and on the last Friday in May, August, and October of each year, and, when necessary, such examination may be continued on the following day, at which time he shall examine them by a series of written or printed questions, according to the rules prescribed by the superintendent of public instruction. The county superintendent shall forward all answer papers submitted by candidates for county certificates, designating each by number instead of name, immediately after the close of the examination to the superintendent of public instruction for examination, marking, filing and recording. The superintendent of public instruction shall transmit, within thirty days from the date of said examination, a record of the standings of each applicant to the county superintendent, who shall then grant to the applicant a certificate of qualification, if from the percentage of correct answers required by the rules, said applicant is found to possess the requisite knowledge and understanding to teach in the common schools of the state the various branches required by law; provided, the county superintendent has sufficient evidence that the candidate is a person of good moral character, has had successful experience, if any, and possesses an aptness to teach and govern.

§ 741. TEACHERS' GRADES. HOW ESTABLISHED. RE-EXAMINATION. WHEN ALLOWED.] County certificates shall be of three regular grades, the first grade for a term of three years, the second grade for a term of two years, and the third grade for one year, according to the ratio of correct answers of each applicant, and other evidence of qualification appearing from the examination. No certificate shall be granted unless the applicant shall be found proficient in, and qualified to teach, the following branches of a common English education: Reading, writing, orthography, language lessons and English grammar, geography, United States history, arithmetic, civil government, physiology and hygiene, and can pass a satisfactory examination in physical culture and theory and practice of teaching. In addition to the above, applicant for a first grade certificate shall pass a satisfactory examination in physical geography, elements of natural philosophy, elements of psychology, elementary geometry and algebra. The percentage required to pass any branch shall be prescribed by the superintendent of public instruction. In addition to these regular grades of certificates, drawing, vocal music, and kindergarten certificates, entitling the holders thereof to teach such subjects only, shall be issued when conditions so require, each for a term of three years, under such regulations as the superintendent of public instruction shall prescribe. The county superintendent may grant permission to teach, until the results of the next regular examination are received from the superintendent of public instruction, to any person applying at any other time than at a regular examination, who can show satisfactory reasons for failing to attend such examination, and satisfactory evidence of qualification, subject to such rules and regulations as may be prescribed by the superintendent of public instruction. Such permit shall not be

granted more than once in any county to the same person. The written answers of all candidates for county certificates, after being duly examined by the superintendent of public instruction, shall be kept by him for the space of six months after such examination, and any candidate thinking an injustice has been done him, may, by paying a fee of two dollars into the institute fund of the county, and notifying both the county superintendent and the superintendent of public instruction of the same, have his papers reviewed by the superintendent of public instruction in person, and, if such answers warrant it, he shall instruct the county superintendent to issue such candidate a county certificate of the proper grade, and the county superintendent shall carry out such instruction.

§ 742. QUALIFICATIONS OF TEACHERS. CONTRACTS. WHEN VOID.] No certificate or permit to teach shall be issued to any person under eighteen years of age, and no first grade certificate shall be issued to any person who is under twenty years of age, and who has not taught successfully twelve school months; and no person shall be allowed to teach more than fifteen school months on third grade certificates. First and second grade certificates may be renewed without examination, under such requirements as shall be imposed by the superintendent of public instruction for the pursuance and completion of reading circle work. The certificate issued by a county superintendent shall be valid only in the county where issued; provided, that a county superintendent shall indorse for the full period for which they are valid, when presented to him for indorsement, first and second grade certificates, and drawing, music, and kindergarten certificates issued by any other county superintendent in the state, unless a valid reason exists for withholding such indorsement. Such certificates, when properly indorsed, shall be valid in the county over which the county superintendent who indorsed them has jurisdiction. A fee of one dollar shall be paid into the institute fund of the county for each renewal or indorsement, as provided in the case of examination. 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, or organized as independent districts under the general school laws, who is not the holder of a lawful certificate of qualification, or permit to teach; and no teachers' certificate issued by the superintendent of public instruction, nor a teachers' diploma granted by any institution of learning in this state, shall entitle a person to teach in such public schools of any county; unless such certificate or diploma shall have been recorded in the office of the county superintendent; provided, further, that no certificate or permit to teach in the schools of the state shall be granted to any person not a citizen of the United States, unless such person has resided in the United States for one year last prior to the time of such application for certificate or permit. Any contract made in violation of this section shall be void.

§ 743. FEE FOR CERTIFICATE.] Each applicant for a county cer-

tificate shall pay two dollars to the county superintendent, one dollar of which shall be paid into the county teachers' institute fund, to be used in support of teachers' institutes, or the teachers' training schools in the county, as otherwise provided, and one dollar of said fee shall be used by the superintendent of public instruction for such clerical assistance as he may deem necessary and competent for the reading of teachers' answer papers and work connected therewith. It shall be the duty of the county superintendent, immediately after each examination, to forward one dollar for each applicant for teachers' certificate to the superintendent of public instruction, such sums to be used by him as hereinbefore provided.

Approved February 14, 1901.

CHAPTER 86.

[H. B. 52.]

RELATING TO EDUCATION.

AN ACT to Amend Section 717 of Chapter 75 of the Session Laws of 1897, Being the Same as Section 717 of the Revised Codes of 1899, Relating to Education.

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

§ 1. AMENDMENT.] That section 717 of chapter 75 of the Session Laws of 1897, being the same as section 717 of the Revised Codes of 1899, be amended so as to read as follows:

§ 717. TREASURER'S ACCOUNTS. ANNUAL SETTLEMENT.] The district treasurer shall open new accounts with each fund at the beginning of each school year, and the balance of each fund shall be brought down and become a part of the first entry in opening the account for the new year. On the second Tuesday in July the school board shall make settlement with the district treasurer, and shall carefully examine his books, accounts and vouchers, and shall ascertain if the amount of all warrants, bonds and coupons paid and redeemed, or paid in part, together with the cash in his hands or under his control, is equal to the amount of the cash on hand at the beginning of the school year, together with all money received by him from all sources for school purposes during the year. The district treasurer shall deliver to the board at such annual meeting all warrants, bonds and coupons paid and redeemed by him during the school year, and held by him as vouchers, taking the receipt of the board therefor, and such vouchers shall forthwith be filed with the district clerk. He shall at that meeting make his annual report in triplicate, one copy to be preserved in the treasurer's office, one to be filed with the clerk of the school board, and one to be transmitted to the county superintendent

of schools, and the board shall cause to be published an itemized statement of the receipts and expenditures of the preceding year, in a newspaper of the county nearest said school district; provided, that if said board or treasurer shall have failed to publish said statement by the first of September following the presentation of the treasurer's annual report, then it shall be the duty of the county superintendent of schools to cause the publication of the same in a newspaper of the county, said publication to be paid for by the school district. The treasurer's reports shall show the following:

RECEIPTS.

The balance at the close of the year;
The amount received into the state tuition fund;
The amount received into the special fund;
The amount received into the sinking fund.

EXPENDITURES.

The amount paid for school houses, sites and furniture;
The amount paid for apparatus and fixtures;
The amount paid for teachers' wages;
The amount paid for services and expenses of school officers;
The amount paid for redemption of bonds;
The amount paid for interest on bonds;
The amount paid for incidental expenses;
The cash on hand at the close of the school year.

Such report shall include such other items as may be required by the district board, or the superintendent of public instruction, and shall be upon, and in conformity with, the blanks furnished him for that purpose.

Approved March 7, 1901.

FARM LABORERS' LIENS.

CHAPTER 87.

[H. B. 105.]

FARM LABORERS' LIEN.

AN ACT to Amend Section 4827 of the Revised Codes of North Dakota, Relating to Farm Laborers' Lien.

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

§ 1. AMENDMENT.] That section 4827 of the Revised Codes of North Dakota be amended so as to read as follows:

§ 4827. HOW LIEN OBTAINED.] In order to acquire a lien, as specified in section 4826 of this chapter, the person performing such services shall within thirty days after the services are fully performed, file in the office of the register of deeds of the county in which any of the real estate is situated, on which any crop is grown, on which a lien is claimed, an affidavit and notice, setting forth the terms of the employment, the name of the employer, the time when the services were commenced and when ended, the wages agreed upon, if any, and if not agreed upon, then the reasonable value of the same, the terms of payment, if any, and a description of the real estate on which any crop is grown, or has been grown, or harvested, on which a lien is claimed, the amount paid him, if any, and the amount remaining unpaid, and that said laborer claims a lien for the same.

§ 2. EMERGENCY.] Whereas, an emergency exists that only ten days is prescribed wherein said affidavit and notice can be filed, therefore this act shall take effect immediately after its passage and approval.

Approved March 8, 1901.

FLAG OF UNITED STATES.

CHAPTER 88.

[S. B. 209.]

DESECRATION OF THE FLAG.

AN ACT to Prevent and Punish the Desecration of the Flag of the United States.

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

§ 1. FLAG. PUNISHMENT FOR DESECRATION OF.] Any person who in any manner, for exhibition or display, shall place, or cause to be placed, any words or figures, or number, or marks, or inscriptions, or picture, or design, or device, or symbol, or token, or notice, or drawing, or any advertisement of any nature whatever, upon any flag, standard, color, or ensign, of the United States, or shall expose, or cause to be exposed, to public view any such flag, standard, color, or ensign of the United States, upon which shall be printed, painted or otherwise placed, or to which shall be attached, appended, affixed, or annexed, any words, or figures, or numbers, or marks, inscriptions, or pictures, or design, or device, or symbol, or token, or notice, or drawing, or any advertisement of any nature or kind whatever, or who shall expose to public view, or shall manufacture, or sell, or expose for sale, or have in possession for sale, or for use, any article, or thing, or substance, being an article of merchandise, or a receptacle of merchandise, upon which shall have been printed, painted or attached, or otherwise placed, a representation of any such flag, standard, color, or ensign of the United States, to advertise, or call attention to, or to decorate, or to ornament, or to mark, or to distinguish, the article, or thing, on which so placed, or shall publicly mutilate, trample upon, or publicly deface, or defy, or defile, or cast contempt, either by words or act, upon any such flag, standard, color, or ensign of the United States, shall be deemed guilty of a misdemeanor.

§ 2. FLAG, ETC. MEANING OF.] The words flag, standard, color, or ensign, of the United States as used in this act shall include any flag, any standard, any color, any ensign, or any representation of, a flag, standard, color, or ensign, or a picture of a flag, standard, color, or ensign, made of any substance whatever, and of any size whatever, evidently purporting to be either of said flag, standard, color, or ensign of the United States, or a picture, or a representation of either thereof, upon which shall be shown the colors, the stars and stripes, in any number of either thereof, or by which the person seeing the same, without deliberation, may believe the same to represent the flag, or the colors, or the standard, or the ensign of the United States of America.

§ 3. ACT PERMITTED BY U. S. OR U. S. ARMY AND NAVY REGULATIONS. ACT DOES NOT APPLY.] This act shall not apply to any act permitted by the statutes of the United States or by the United States

army and navy regulations, nor shall this act be construed to apply to the regular issue of a newspaper or other periodical, on which shall be printed said flag, disconnected from any advertisement.

§ 4. PENALTY.] Any person offending against the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof before a court of competent jurisdiction, shall be fined a sum not less than five, or to exceed twenty-five dollars, or thirty days' imprisonment in the county jail, or both such fine and imprisonment in the discretion of the court.

Approved March 13, 1901.

FRATERNAL ORGANIZATIONS.

CHAPTER 89.

[H. B. 2.]

FRATERNAL ORGANIZATIONS.

AN ACT to Provide for the Status, Organization, and Government of Associations Known as Lodges, Chapters, Posts, Encampments, Councils, Commanderies, Consistories and Other Similar Organizations of the Fraternities or Associations Commonly Known as the Various Organization of Free Masons, Independent Order of Odd Fellows, Grand Army of the Republic, Knights of Pythias and Other Similar Benevolent or Charitable Fraternities or Associations Not Organized for Profit or Fraternal Insurance.

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

§ 1. FRATERNITIES AND ASSOCIATIONS.] Associations known as lodges, chapters, posts, encampments, councils, commanderies, consistories and other similar organizations, having a seal and working under a charter issued by some grand or sovereign body of like character to themselves, of the fraternities or associations commonly known as the various organizations of Free Masons, Independent Order of Odd Fellows, Grand Army of the Republic, Knights of Pythias and other similar benevolent or charitable fraternities or associations, not organized for profit or for fraternal insurance, located in this state, shall, from and after the taking effect of this act, be deemed to be corporations, notwithstanding no articles of incorporation have been filed, and no charter granted by this state.

§ 2. CHARTER. COPY OF TO BE FILED WITH SECRETARY OF STATE AND REGISTER OF DEEDS. FEES OF.] Every such association now in existence shall, within thirty days of the taking effect of this act, and every association hereinafter organized shall, within thirty days after perfecting such organization and electing its officers, file with the secretary of state a copy of its charter under which it works, certified by the secretary of such organization, under the seal thereof, and shall

likewise deposit a copy of such charter so certified in the office of the register of deeds of the county in which such body is located, and the secretary of state shall be paid a fee of five dollars therefor, and the register of deeds the same fee as for filing a chattel mortgage. At the same time, such association or organization shall cause to be deposited with the secretary of state a statement signed by the chief officer of such association and attested by its secretary, showing:

1. The name by which such association or organization shall be known, which shall correspond with the name given to it in its charter, if there be one.

2. The place where it is, or shall be located.

3. The time during which it shall exist.

4. The names and designations of its elective officers, the names and number of its board of directors or trustees, the names and number of its finance committee, if any, then serving as such officers, trustees or finance committee, until the election or qualification of their successors in office.

5. The name of the grand, supreme or sovereign lodge, or other superior body or bodies to which it owes allegiance.

6. If the private property of its members is liable for its association debts, to what extent.

7. The maximum limit of its indebtedness, which in no case shall exceed one hundred thousand dollars.

§ 3. BY-LAWS. COPY OF TO BE FILED WITH SECRETARY OF STATE.] Every such association shall within three months after the taking effect of this act, or within three months after the filing of certificate above mentioned, file in the office of the secretary of state a copy of such by-laws as pertain to the election of the directors or trustees, officers and the appointment of its finance committee, if any, and the management of its business affairs. Such copy so filed shall be certified by its directors, or trustees, as being a true copy of all such by-laws as relate to the subject above specified, and within one month after the adoption of any new by-law, or the repeal or amendment of any by-law, relating to such subject, a copy thereof, duly certified by the directors or trustees, shall be filed with the secretary of state.

§ 4. FAILURE TO COMPLY. PENALTY.] Any such association failing to comply with either section 2 or 3 of this act shall forfeit to the state the sum of five dollars to be collected by suit.

§ 5. The duration of such associations shall be perpetual, or for such a length of time as is shown by the certificate filed as hereinbefore provided for.

§ 6. Any such association has power:

1. To have succession by its associate name.

2. To sue and be sued in any court.

3. To make and use a common seal and alter the same at pleasure.

4. In its associate name to purchase, hold and transfer and convey real and personal property.

5. To appoint such subordinate officers and agents as the business of the association may require and allow them suitable compensation.

6. To make by-laws, not inconsistent with the law of the land, for the management of its affairs and property.

7. To admit members and to suspend, reinstate or expel its members under the rules, by-laws and customs of such association.

8. To enter into any obligation or contract essential to the transaction of its affairs, or authorized by a vote of its members.

9. To apply its funds and property to charitable and benevolent objects pursuant to the purpose for which such association is organized.

§ 7. PROPERTY. POWER TO ACQUIRE.] Any such association shall have power to acquire property, both real and personal, by purchase, devise or bequest, to an amount not exceeding one hundred thousand dollars in value, and to hold the same, and may sell, exchange or mortgage any or all property held or owned by it, in the manner determined by its by-laws or by a majority vote of its members present at a meeting called for such purpose.

§ 8. CONTRACTS AND INVESTMENTS. MAY MAKE.] Any such association may make contracts and invest its funds in the name of such association, contract debts, issue bonds or other evidence of its indebtedness for money, labor done, or money or property actually received, and to a total indebtedness not to exceed in amount the value of its corporate property, both real and personal, actually owned by such association.

§ 9. MEMBERSHIP.] The membership of any such association shall be fixed and determined, each one according to its laws, rules, customs and usages.

§ 10. DIRECTORS, TRUSTEES AND OFFICERS.] Any such association under this article shall elect its directors or trustees and its officers and call and hold its meetings at the time, and in the manner, prescribed by its by-laws, or by the laws, rules, customs and usages of its supreme, grand or superior body. The elective officers, including directors or trustees, shall be such as its superior body may require or the by-laws shall prescribe, and shall perform such duties as may be designated by the by-laws.

§ 11. DIRECTORS OR TRUSTEES. HOW MANY. ORGANIZATION OF.] Such associations may have a board of directors or trustees consisting of one, and not more than 11 members, who shall perform the duties usually performed by the board of directors of business corporations, or as may be prescribed by by-laws, and such board may organize and elect a president, vice president, secretary and treasurer thereof, and the secretary thereof shall preserve a record of all meetings and transactions of such board, which shall be at all times open to the inspection of any member of such association.

§ 12. PROPERTY LIABLE FOR DEBTS.] The property of any such association, both real and personal, shall be liable for the debts there-

of; provided, that this shall not be construed as applying to the properties or paraphernalia used in the initiatory or degree work of such lodge, chapter, post, encampment, council, commandery, consistory, or other similar organization, or to the rituals and other books pertaining to the written or unwritten work.

§ 13. PRIVATE PROPERTY. NOT LIABLE FOR CORPORATE DEBTS.] The private property of the members of such association shall not be liable for its corporate debts, except by vote of its members, and then only the private property of such members as are present at a meeting and voting in the affirmative upon such a proposition, which vote shall be by yeas and nays, and the minutes of such meeting shall show the names of those voting in the affirmative and of those voting in the negative, which record shall be prima facie evidence of the facts therein contained; provided, however, that the property of each director, trustee or other officer incurring or authorizing an indebtedness in excess of the value of all the corporate property of such association, both real and personal, shall be liable for such excess expenditures, except of such officers as may file with the secretary of such association, at the time such excess indebtedness is authorized or incurred, a written objection thereto, or is absent from the meeting authorizing or incurring such excess indebtedness.

§ 14. ASSOCIATION SHALL NOT ISSUE STOCK.] Any such association shall not issue any stock, nor any member thereof have or acquire any divisional share in the property belonging to such association, nor the right to sell, transfer or convey, any right, property or membership therein; nor shall any estate in any property of such association vest in the heirs of any member at his death, but all of his right, title and interest in such association shall cease and determine at his death, or upon ceasing to be a member thereof.

§ 15. ASSOCIATION SHALL NOT DECLARE DIVIDENDS OR DIVIDE PROPERTY.] No such association shall declare any dividends or divide its property among its members during the existence of such association, and upon its dissolution, its property shall be disposed of after all its just debts are paid, in a manner provided for by a majority vote of all the members of such association present at a meeting duly called for such purpose; provided, however, that before any such distribution is made, or division had, its elective officers shall file a certificate in the office of the register of deeds in the county in which such association is located, stating that all its debts are paid, and any officer signing such a certificate shall be personally liable in his private estate for any debt of such an association outstanding and unpaid, and provided, however, that all such property and debts due to such association shall be delivered up to the grand, supreme or sovereign lodge or other body, or bodies of the association, or fraternity to which such subordinate body forming such association may belong or owe allegiance, if required by the law and usages of such fraternity or association.

§ 16. CHARTER. WHEN REVOKED OR SUSPENDED.] Whenever the supreme, grand or sovereign lodge or other superior body or bodies, shall at any time revoke or suspend the charter granted by it to such subordinate lodge or other organization, or whenever by the laws and usages of the organization of which such subordinate body forms a part, or by operation of any law of this state, or by a vote of the majority of its members called for such purpose, when not in conflict with the laws of its superior body, the said subordinate body shall become defunct, then the corporate powers of such lodge, or other subordinate organization shall cease and determine, except that the directors or trustees last elected shall act as trustees to close up its affairs, and may collect the debts due such association, settle the debts contracted by such association, and to pay such debts, shall have power to sell, convey and dispose of its property, or sufficient thereof to do so, and the remainder of its property, both real and personal, shall then be disposed of as in this act, provided, that all rituals, books, properties and paraphernalia relating to, or used in, the secret work of such lodge, chapter, post, encampment, council, commandery, consistory, or other similar organization, shall be delivered by said directors or trustees to the supreme, grand or sovereign lodge, or other superior body to which such lodge, chapter, post, encampment, council, commandery, consistory, or other similar organization is subordinate.

§ 17. SERVICE OF PROCESS. HOW MADE.] Services of process against such association shall be made as provided for service of process upon other corporations, and conveyances of its real estate shall be signed by its chief officer, or person acting as such, and attested by its secretary, or other like officer under its association seal.

§ 18. This act shall not apply to such societies of this character as have already incorporated under provisions of chapter 17 (civil code) of the Revised Codes, or which may elect to so incorporate.

§ 19. EMERGENCY.] Whereas, an emergency exists, in that there is no adequate or proper law to provide for the status, organization and government of associations known as lodges, chapters, posts, encampments, councils, commanderies, consistories and other similar organizations, and to define the liabilities of the members and officers thereof, and to permit such associations to acquire, hold, convey and mortgage, real estate and personal property and make contracts; therefore, an emergency exists and this act shall take effect and be in force from and after its passage and approval.

Approved February 20, 1901.

CHAPTER 90.

[S. B. 21.]

RELATING TO FRATERNAL AND BENEFICIARY SOCIETIES.

AN ACT Regulating Fraternal Beneficiary Societies, Orders or Associations.

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

§ 1. FRATERNAL BENEFICIARY SOCIETIES.] A fraternal beneficiary association is hereby declared to be a corporation, society or voluntary association, formed, or organized and carried on, for the sole benefit of its members and their beneficiaries, and not for profit. Each association shall have a lodge system, with ritualistic form of work and representative form of government, and shall make provision for the payment of benefits in case of death, and may make provision for the payment of benefits in case of sickness, temporary or permanent physical disability, either as the result of disease, accident or old age, provided the period in life at which payment of physical disability benefits on account of old age commences, shall not be under seventy (70) years, subject to their compliance with its constitution and laws. The fund from which the payment of such benefits shall be made, and the fund from which the expenses of such association shall be defrayed, shall be derived from assessments or dues collected from its members. Payment of death benefits shall be to the families, heirs, blood relatives, affianced husband or affianced wife of, or to persons dependent upon the member. Such association shall be governed by this act and shall be exempt from the provisions of insurance laws of this state, and no law hereafter passed shall apply to them unless they be expressly designated therein. Any such fraternal beneficial association may create, maintain, disburse and apply a reserve or emergency fund in accordance with its constitution or by-laws.

§ 2. HOW TO PROCEED.] All such associations coming within the description, as set forth in section 1 of this act, organized under the laws of this or any other state, province or territory, and now doing business in this state, may continue such business, provided, that they hereafter comply with the provisions of this act regulating annual reports and the designation of the commissioner of insurance as the person upon whom process may be served as hereinafter provided.

§ 3. HOW TO DO BUSINESS IN THIS STATE.] Any such association coming within the description, as set forth in section 1 of this act, organized under the laws of any other state, province or territory, and not now doing business in this state, shall be admitted to do business within this state when it shall have filed with the commissioner of insurance, a duly certified copy of its charter and articles of association,

and a copy of its constitution or laws, certified to by its secretary or corresponding officer, together with an appointment of the commissioner of insurance of this state as a person upon whom process may be served as hereinafter provided; and, provided, that such association shall be shown to be authorized to do business in the state, province or territory in which it is incorporated or organized, in case the laws of such state, province or territory shall provide for such authorization; and in case the laws of such state, province or territory do not provide for any formal authorization to do business on the part of such association, then such association shall be shown to be conducting its business in accordance with the provisions of this act, for which purpose the commissioner of insurance of this state may personally, or by some person to be designated by him, examine into the condition, affairs, character and business methods, accounts, books and investments of such association at its home office, which examination shall be at the expense of such association, and shall be made within thirty days after demand thereof, and the expense of such examination shall be limited to \$100.

§ 4. MUST FILE CERTIFICATE OF AUTHORIZATION.] Any association doing business under this act shall be permitted to do business upon filing annually with the commissioner of insurance of this state, the certificate of authorization of the insurance department of the state, province or territory in which it is incorporated or organized. Provided, however, in case of failure to file said certificate by any such association, or in case the commissioner of insurance shall deem it necessary, he shall have power to examine, either personally or by some person designated by him, into the condition, affairs, character, business methods, accounts, books and investments of such association, at its home office, which examination shall be at the expense of the association; the amount thereof shall not exceed one hundred dollars in associations with no reserve or emergency fund, and two hundred dollars for associations with a reserve or emergency fund.

§ 5. MUST MAKE ANNUAL REPORT.] Every such association doing business in this state shall, on or before the first day of March of each year, make and file with the commissioner of insurance of this state, a report of its affairs and operations during the year ending on the 31st day of December, immediately preceding, which annual report shall be in lieu of all other reports required by any other law. Such reports shall be upon blank form, to be provided by the commissioner of insurance, or may be printed in pamphlet form, and shall be verified under oath by the duly authorized officers of such association, and shall contain answers to the following questions:

1. Number of certificates issued during the year, or members admitted.
2. Amount of indemnity effected thereby.
3. Number of losses or benefit liabilities incurred.
4. Number of losses or benefit liabilities paid.

5. The amount received from each assessment for the year.
6. Total amount paid members, beneficiaries, legal representatives or heirs.
7. Number and kind of claims for which assessments have been made.
8. Number and kind of claims compromised or resisted, and statement of reasons.
9. Does association charge annual or other periodical dues or admission fees?
10. How much on each one thousand dollars, annually or per capita, as the case may be.
11. Total amount received, from what source, and the disposition thereof.
12. Total amount of salaries paid to officers.
13. Does association guarantee, in its certificates, fixed amounts to be paid, regardless of amount realized from assessments, dues, admission fees and donations?
14. If so, state amount guaranteed, and the security of such guaranty.
15. Has the association a reserve fund?
16. If so, how is it created, and for what purpose, the amount thereof, and how invested?
17. Has the association more than one class?
18. If so, how many, and the amount of indemnity in each?
19. Number of members in each class.
20. If voluntary, so state, and give date of organization.
21. If organized under the laws of this state, under what law, and at what time; giving chapter and year and date of the passage of the act.
22. If organized under the laws of any other state, province or territory, state such fact, and the date of organization, giving chapter and year and date of passage of the act.
23. Number of certificates of beneficiary membership lapsed during the year.
24. Number in force at beginning and end of year; if more than one class, number in each class.
25. Names and addresses of its president, secretary and treasurer, or corresponding officers.

The commissioner of insurance is authorized and empowered to address any additional inquiries to any such association, in relation to its doings or condition, or any other matter connected with its transaction, relative to the business contemplated by this act, and such officers of such association, as the commissioner of insurance may require, shall promptly reply in writing, under oath, to all such inquiries.

§ 6. WHEN PRINCIPAL OFFICE NOT IN THE STATE.] Each such association now doing, or hereafter admitted to do, business within this state, and not having its principal office within this state, and not

being organized under the laws of this state, shall appoint, in writing, the commissioner of insurance, and his successors in office, to be its true and lawful attorney, upon whom all lawful process in any action or proceeding against it must be served, and in such writing shall agree that any lawful process against it, which is served on said attorney, shall be of the same legal force and validity as if served upon the association, and that the authority shall continue in force so long as any liability remains outstanding in this state. Copies of such certificate, certified by said commissioner of insurance, shall be deemed sufficient evidence thereof, and shall be admitted in evidence with the same force and effect as the original thereof might be admitted. Service upon such attorney shall be deemed sufficient service upon such association. When legal process against any such association is served upon said commissioner of insurance, he shall immediately notify the association of such service by letter, prepaid and directed to its secretary or corresponding officer, and shall within two days after such service forward in the same manner a copy of the process served on him to such officer. The plaintiff in such process so served shall pay to the commissioner of insurance, at the time of such service, a fee of \$3.00, which shall be recovered by him as a part of the taxable costs, if he prevails in the suit. The commissioner of insurance shall keep a record of all processes served upon him, which record shall show the day and hour when such service was made.

§ 7. INSURANCE COMMISSIONER ISSUE PERMIT.] The commissioner of insurance of this state shall, upon the application of any association having the right to do business within this state, as provided by this act, issue to such association annually a permit in writing, authorizing such association to do business within this state, for which permit and all proceedings in connection therewith, such association shall pay to said commissioner the fee of \$15.00.

§ 8. FILE ARTICLES OF INCORPORATION.] Every fraternal or beneficiary society or association which undertakes to furnish indemnity to its members or their families, which is not incorporated under the laws of another state, shall before doing business in this state, incorporate under the provisions of article 3 of chapter 17 of the civil code, and in addition shall file with the commissioner of insurance a duly certified copy of its articles of incorporation, and a copy of its constitution and laws, duly certified by its secretary or corresponding officer, and shall in all respects comply with, and be subject to, the provisions of this act so far as the same are applicable.

Such commissioner of insurance shall, before issuing a permit to such corporation to do business, examine into its character and ascertain that it in all things has complied with the requirements of this act.

§ 9. PAID AGENTS, WHEN EMPLOYED.] Such association shall not employ paid agents in soliciting or procuring members, except in the organization or building up of subordinate bodies, or granting members inducements to procure new members.

§ 10. CONTRACT NOT VALID.] No contract with any such association shall be valid when there is a contract, agreement or understanding between the member and the beneficiary that the beneficiary, or any person for him, shall pay such member's assessments or dues, or either of them.

§ 11. BENEFIT NOT LIABLE TO ATTACHMENT.] The money or other benefit, charity, relief or aid to be paid, provided or rendered by any association authorized to do business under this act, shall not be liable to attachment by trustee, garnishee or other process, and shall not be seized, taken, appropriated or applied by any legal or equitable process, or by operation of law, to pay any debt or liability of a certificate holder, or of any beneficiary named in a certificate, or any person who may have any right thereunder.

§ 12. MUST SHOW MORTUARY ASSESSMENT RATE.] No association, not admitted to transact business within this state prior to the passage of this act, shall be incorporated, or given a permit, or certificate of authority to transact business within this state, as provided for by this act, unless it shall first show that the mortuary assessment rates, provided for in whatever plan or business it has adopted, are not lower than is indicated as necessary by the following mortality table:

FRATERNAL CONGRESS MORTALITY TABLE.

Age.	No. Living.	No. Dying.	Probability of Dying.
20	100,000	500	.005000
21	99,500	501	.005035
22	98,999	502	.005071
23	98,497	503	.005107
24	97,994	505	.005153
25	97,489	507	.005201
26	96,982	510	.005259
27	96,472	513	.005318
28	95,959	517	.005388
29	95,442	522	.005469
30	94,920	527	.005552
31	94,393	533	.005647
32	93,860	540	.005753
33	93,320	548	.005872
34	92,772	557	.006004
35	92,215	567	.006149
36	91,648	578	.006307
37	91,070	591	.006490
38	90,479	606	.006698
39	89,873	622	.006921
40	89,251	640	.007171
41	88,611	660	.007448
42	87,951	683	.007766

Age.	No. Living.	No. Dying.	Probability of Dying.
43	87,268	708	.008113
44	86,560	734	.008480
45	85,826	761	.008867
46	85,065	790	.009287
47	84,275	822	.009754
48	83,453	857	.0102693
49	82,596	894	.0108238
50	81,702	935	.0114440
51	80,767	980	.0121337
52	79,786	1,029	.0128970
53	78,757	1,083	.0137511
54	77,674	1,140	.0146767
55	76,534	1,202	.0157054
56	75,332	1,270	.0168587
57	74,062	1,342	.0181200
58	72,720	1,418	.0194994
59	71,302	1,501	.0210513
60	69,801	1,588	.0227504
61	68,213	1,681	.0246434
62	66,532	1,778	.0267240
63	64,754	1,880	.0290330
64	62,874	1,985	.0315711
65	60,889	2,094	.0343904
66	58,795	2,206	.0375206
67	56,589	2,318	.0409620
68	54,271	2,430	.0447753
69	51,841	2,539	.0489767
70	49,302	2,645	.0536489
71	46,657	2,744	.0588122
72	43,913	2,832	.0644912
73	41,081	2,909	.0708113
74	38,172	2,969	.0777795
75	35,203	3,009	.0854757
76	32,194	3,026	.0939927
77	29,168	3,016	.1034010
78	26,152	2,977	.1138345
79	23,175	2,905	.1253506
80	20,270	2,799	.1385163
81	17,471	2,659	.1521951
82	14,812	2,485	.1677694
83	12,327	2,280	.1849599
84	10,047	2,050	.1855707
85	7,997	1,800	.2250844
86	6,197	1,539	.2483460
87	4,658	1,277	.2741520
88	3,381	1,023	.3025732

Age.	No. Living.	No. Dying.	Probability of Dying.
89	2,358	788	.3341815
90	1,570	579	.3687898
91	991	404	.4076690
92	587	264	.4497445
93	323	161	.4984520
94	162	89	.5493827
95	73	44	.6027397
96	29	19	.6551724
97	10	7	.7000000
98	3	3	1.0000000

§ 13. HOW GOVERNED.] Any such association, organized under the laws of this state, may provide for the meetings of its legislative or governing body in any other state, province or territory, wherein such association shall have subordinate bodies, and all business transacted at such meetings shall be valid in all respects, as if such meetings were held within this state, and where the laws of any such association provide for the election of its officers by votes to be cast in its subordinate bodies, the votes so cast in its subordinate bodies in any other state, province or territory, shall be valid as if cast within this state.

§ 14. FRAUDULENT STATEMENTS. PENALTY.] Any person, officer, member or examining physician, who shall knowingly or willfully, make any false or fraudulent statement or representation, in or with reference to any application for membership, or for the purpose of obtaining any money or benefit in any association transacting business under this act, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine not less than \$100, nor more than \$500, or imprisonment in the county jail for not less than thirty days, nor more than one year, or both, in the discretion of the court; and any person who shall willfully make a false statement of any material fact or thing in a sworn statement as to the death or disability of a certificate holder in any such association, for the purpose of procuring payment of a benefit named in the certificate of such holder, and any person who shall willfully make any false statement in any verified report or declaration, under oath, required or authorized by this act, shall be guilty of perjury, and shall be proceeded against and punished as provided by the statutes of this state in relation to the crime of perjury.

§ 15. REFUSING TO MAKE STATEMENT. PENALTY.] Any such association refusing or neglecting to make the report, as provided in this act, shall be excluded from doing business within this state. Said commissioner of insurance must, within sixty days after failure to make such report, or in case any such association shall exceed its powers, or shall conduct its business fraudulently, or shall fail to comply with any of the provisions of this act, give notice in writing to the attorney general, who shall immediately commence an action against any such association to enjoin the same from carrying on any

business. And no injunctions against any such association shall be granted by any court, except on application by the attorney general, at the request of the commissioner of insurance, whether the state, or a member, or other party, seeks relief. No association so enjoined shall have authority to continue business until such report shall be made, or overt act or violations complained of shall have been corrected, nor until the costs of such action be paid by it, provided the court shall find that such association was in default as charged, whereupon the commissioner of insurance shall reinstate such association, and not until then shall such association be allowed to again do business in this state. Any officer, agent or person acting for any association or subordinate body, thereof within this state, while such association shall be so enjoined or prohibited from doing business pursuant to this act, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be punished by a fine not less than \$25 nor more than \$200, or by imprisonment in the county jail for not less than thirty days nor more than one year, or by both such fine and imprisonment, in the discretion of the court.

§ 16. PENALTY FOR FAILURE TO COMPLY.] Any person who shall act within this state, as an officer, agent, or otherwise, for any association, which shall have failed, neglected or refused to comply with, or shall have violated any of the provisions of this act, or shall have failed or neglected to procure from the commissioner of insurance proper certificate of authority to transact business, as provided for by this act, shall be subject to the penalty provided in the last preceding section for the misdemeanor therein specified.

Approved March 14, 1901.

CHAPTER 91.

[H. B. 4.]

INCORPORATION OF BENEVOLENT AND SOCIAL INSTITUTIONS.

AN ACT to Amend Sections 3183 and 3184 of the Revised Codes of North Dakota, Relating to the Incorporation of Certain Classes of Benevolent, Charitable and Social Institutions.

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

§ 1: AMENDMENT.] That sections 3183 and 3184 of the Revised Codes of the state of North Dakota, be amended so as to read as follows:

§ 3183. WHO MAY FORM.] Lodges, chapters, posts, encampments, councils, commanderies, clubs or associations controlled by, or mainly composed of members of such fraternities or associations 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, and other similar benevolent, social or charitable fraternities or associations not organized for fraternal insurance, may become corporations upon compliance with the provisions of this article.

§ 3184. CONTENTS OF ARTICLES.] Any such lodge, chapter, post, encampment, council, commandery, club or association or other similar organization, desiring to avail itself of the provisions of this article, shall cause to be prepared articles of incorporations, 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 one hundred thousand dollars, 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.

§ 2. EMERGENCY.] Whereas, an emergency exists, in that there is no law under which a social club or association can be incorporated, therefore this act shall take effect and be in force immediately after its passage and approval.

Approved February 7, 1901.

FEES.

CHAPTER 92.

[H. B. 38.]

FEES OF CLERKS OF DISTRICT COURTS.

AN ACT to Amend Section 5 of Chapter 64 of the Session Laws of 1899, Relating to Fees of the Clerks of the District Courts.

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

§ 1. AMENDMENT.] That section 5 of chapter 64 of the session laws of 1899, be amended so as to read as follows:

§ 5. FEES TO BE CHARGED.] Clerks of the district court shall charge and collect the following fees:

1. In actions for the recovery of money only, in which judgment is entered by default, for all services prior to execution, three dollars.
2. In all other actions in which judgment is entered by default, for services prior to execution, five dollars.
3. In special proceedings, for all services prior to appeal, five dollars.
4. In actions in which an issue of fact is tried, for all services prior to execution, seven dollars.
5. In questions in which only a question of law is tried, the fees shall be the same as on default in like actions.
6. In addition to the foregoing fees, for all services growing out of a provisional remedy, there shall be charged and paid at the time the remedy is applied for, for the first paper in connection therewith filed, two dollars and fifty cents.
7. For issuing execution in any action, one dollar.
8. For filing execution on return, fifty cents.
9. For filing and indexing a mechanic's lien, one dollar.
10. For filing and indexing any other paper authorized to be filed in his office, but not connected with any civil action or proceeding, fifty cents.
11. For making certified abstract of any judgment or certified copy of any judgment, order or other paper, filed or recorded in his office, for the first four folios, fifty cents; for each additional folio, ten cents.
12. For entering satisfaction of any judgment or lien, fifty cents.
13. For taking declaration of intention to become a citizen of the United States and making a certified copy of the record thereof, one dollar.
14. For final naturalization papers, including copy of the record thereof, one dollar.

15. For each additional copy of either of such citizen's papers, fifty cents.
 16. For approving bond of a notary public, fifty cents.
 17. For entering and indexing commission of notary public, fifty cents.
 18. For taking an acknowledgment or administering an oath, twenty-five cents.
 19. For recording and indexing any paper not filed in an action or proceeding, for the first four folios, fifty cents; for each additional folio, ten cents.
 20. For a certificate of the official capacity of a notary public, or other officer, fifty cents.
 21. For certifying an abstract of real property as to judgments and liens, for each person named in the abstract as to whom search is made, ten cents.
 22. For receiving, keeping and paying out money in pursuance of law or an order of court, one per cent of the amount, which shall be paid by the person receiving such money.
 23. For issuing commission to take depositions, one dollar.
 24. For certifying the record on appeal to the supreme court, or to the district court of any other county and transmitting the same, five dollars.
 25. For all services on remittitur from supreme court, two dollars.
 26. For taking depositions, per folio, ten cents.
 27. For making certified transcripts of any judgment, one dollar.
 28. For filing and docketing transcript of judgment from justices' court or from any other county, one dollar.
- Approved March 12, 1901.

CHAPTER 93.

[H. B. 207.]

FEES OF SECRETARY OF STATE.

AN ACT to Amend Section 95, of the Revised Codes of 1899, Relating to Fees of the Secretary of State.

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

§ 1. AMENDMENT.] That section 95, of the Revised Codes, be, and the same is, hereby amended to read as follows:

§ 95. FEES.] The secretary of state for services performed in his office, must charge and collect the following fees:

1. For a copy of any law, resolution, record or other document or paper on file in his office, twenty-five cents per folio.
2. For affixing his certificate and seal to any document, one dollar.

3. For affixing his signature and seal without a certificate, fifty cents.

4. For filing articles of incorporation for domestic corporations for profit, five dollars; other domestic corporations, two dollars.

5. For filing and recording articles of incorporation of foreign corporations intending to do business in this state, twenty dollars.

6. For filing and recording appointment of attorney, five dollars.

7. For issuing a certificate of corporate existence of domestic corporations, three dollars.

8. For recording official bonds, two dollars.

9. For each commission or other document, signed by the governor and attested by the secretary of state, except pardons and military commissions, three dollars.

10. For each patent of land issued by the governor, if for one hundred and sixty acres of land or less, one dollar, and for each additional one hundred and sixty acres of land or fraction thereof, one dollar.

11. For searching records and archives of the state, one dollar.

12. For filing and recording notice of removal of place of business, three dollars.

13. For filing certificate of increase or decrease of capital stock, three dollars.

14. For issuing certificate of increase or decrease of capital stock, three dollars.

15. For filing a certificate of continuance of existence of a corporation, three dollars.

16. For issuing such certificate, three dollars.

17. For recording miscellaneous records, papers or other documents, twenty-five cents per folio, and for filing any paper not otherwise provided for, one dollar. But no member of the legislative assembly, or state, or county officer, can be charged for any search relative to matters appertaining to the duties of his office; nor must he be charged any fee for a certified copy of any law or resolution passed by the legislative assembly relative to his official duties. All fees must be paid in advance, and when collected must be paid into the state treasury at the end of each month and placed to the credit of the salary fund.

§ 2. EMERGENCY.] Whereas, under the present law foreign corporations are inadequately taxed to allow them to do business in this state, this act shall take effect and be in force from and after its passage and approval.

Approved March 7, 1901.

CHAPTER 94.

[S. B. 227.]

FEES OF STATE BANK EXAMINER.

AN ACT to Amend Section 325, of the Revised Codes of 1899, Relating to Examination of Banks by State Examiner, and the Fees Therefor, and His Report Thereon to the Governor.

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

§ 1. AMENDMENT.] That section 3254 of the Revised Codes of 1899, be amended to read as follows:

§ 3254. EXAMINATION OF BANKS. FEES. REPORT TO GOVERNOR.] The state examiner of North Dakota shall be ex-officio superintendent of banks; he shall, as often as shall be deemed necessary and proper, and at least once a year, duly examine every bank organized under this law, for which he shall charge the bank so examined a fee for each examination, and turn the same into the state treasury as follows: Banks of twenty thousand dollars capital or less, a fee of twenty dollars (\$20.00); banks of from twenty to thirty thousand dollars capital, a fee of twenty-five dollars (\$25.00); banks of from thirty to forty thousand dollars capital, a fee of thirty dollars (\$30.00); banks of from thirty to forty thousand dollars capital, a fee of thirty dollars (\$30.00); banks of from forty thousand dollars to fifty thousand dollars capital, a fee of thirty-five dollars (\$35.00); banks of from fifty to sixty thousand dollars capital, a fee of forty dollars (\$40.00); banks of from sixty thousand dollars to seventy thousand dollars capital, a fee of forty-five dollars (\$45.00); and all banks having over seventy thousand dollars capital, a fee of fifty dollars (\$50.00). He 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 such report shall be filed in the office of the state examiner, which shall be open to all persons doing business with such association. The state examiner or his deputies shall not be directly or indirectly interested in any association organized under this chapter, or the laws of any other state or the laws of the United States.

Approved March 13, 1901.

CHAPTER 95.

[S. B. 150.]

FEES OF STATE OFFICERS.

AN ACT to Amend Section 327 of the Revised Codes of 1899, Providing for the Record of Fees and Monthly Reports and Payment of Said Fees to the State Treasurer Monthly by Any State Officer or Deputy Authorized by Law to Receive Said Fees, and to Provide Penalties for the Violation of Said Section.

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

§ 1. AMENDMENT.] Section 327 of the Revised Codes of 1899, is hereby amended so as to read as follows:

§ 327. RECORDS. FEES.] Every state officer or deputy state officer, required by section 84 of the constitution of this state, or by any provision of the laws of this state to cover into the state treasury all fees and profits arising from such office, shall keep a record of all such fees or profits in a book kept for that purpose, which book shall be the property of the state. They shall report to the state treasurer monthly the amount of fees or profits received, verified by oath, and at the same time pay the amount of such fees or profits to the treasurer, taking duplicate receipts therefor, one of which shall be filed with the state auditor forthwith, and the auditor shall charge the treasurer with the amount thereof.

§ 2. REPEAL.] All acts and parts of acts in conflict with the provision of this act are hereby expressly repealed.

§ 3. PENALTY.] Any person violating the provisions of section 1 of this act shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in the sum not less than fifty dollars, nor more than one hundred dollars, in the discretion of the court wherein he is convicted.

§ 4. EMERGENCY.] Whereas, there is now no adequate provision of law providing for the monthly payment of fees and profits of state officers and deputies to the state treasurer, now therefore an emergency exists and this act shall take effect and be in full force from and after its passage and approval.

Approved March 7, 1901.

FERRIES.

CHAPTER 96.

[S. B. 194.]

RELATING TO FERRIES.

AN ACT to Amend Sections 1168 and 1173 of the Revised Codes of 1899, Relating to Ferries.

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

§ 1. AMENDMENT.] [That] Section 1168 of the Revised Codes of 1899, be amended so as to read as follows:

§ 1168. DUTIES OF COMMISSIONERS TO GRANT FERRY LICENSES.] The board of county commissioners of the county to whom application shall be made for a ferry in the manner hereinafter provided, is hereby authorized, and it shall be its duty, to grant a lease of such ferry for a term not exceeding fifteen years, to such person or persons as shall bid and secure the payment of the highest amount of rent for the same, such lease to be executed by the board of county commissioners as lessors, and such bidder as lessee; and such board shall be empowered to extend to such person the lease so granted to any person putting in a steam ferry, at the same rate as previously paid; provided, that such extended time shall not exceed fifteen years from the time of the granting of the first lease; and when in the opinion of the board of county commissioners, of the county wherein such lease is granted, the rates fixed by law for crossing such ferry are too high, it shall have the right to fix such rates as in its judgment may seem just; provided, that upon the petition of fifty or more persons owning taxable property and residing in said county, the county commissioners shall survey, lay out and keep in repair a public highway to and from said ferry; provided, further, that the mayor and city council of any incorporated city, and the board of trustees of any incorporated town or village in the state of North Dakota, within whose corporate limits the landing of any ferry shall be situated, shall have the sole authority to grant a lease of such ferry and the right to fix the rates for crossing such ferry, and upon the granting thereof such city, town or village shall lay out and keep in repair a public highway and approach to and from such ferry.

§ 2. AMENDMENT.] Section 1173, of the Revised Codes of 1899, are amended so as to read as follows:

§ 1173. MONEY FROM FERRY LEASES TO GO TO SCHOOL FUND.] All moneys received by the board of county commissioners upon leases granted for ferries as aforesaid, shall within thirty days after the receipt thereof, be paid to the county treasurer for the use of the public

schools of the county, and the same shall be apportioned among the several districts of the county in like manner as other school funds are now by law apportioned; provided, that all moneys received by the mayor and city council of any incorporated city, or by the board of trustees of any incorporated town or village, in this state, for the leasing of any ferry whose landing shall be within the corporate limits of such city, town or village, shall immediately upon the receipt of the same, be turned over to the treasurer of such city, town or village, to be by him deposited in the general fund and paid out in like manner as other moneys are paid out of said general fund for the use of said city, town or village.

§ 3. EMERGENCY.] Whereas, there is now no law providing for the leasing of ferry franchise within the limits of incorporated cities, towns or villages of this state, or for the disposition of the moneys received therefrom, an emergency exists, therefore this act shall take effect from and after its passage and approval.

Approved March 11, 1901.

FREE PUBLIC LIBRARIES.

CHAPTER 97.

[S. B. 224.]

FREE PUBLIC LIBRARIES.

AN ACT to Amend Section 2467 of the Revised Codes of North Dakota, 1899, Relating to Free Public Libraries.

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

§ 1. AMENDMENT.] That section 2467 of the Revised Codes of North Dakota, 1899, be amended so as to read as follows:

§ 2467. LIBRARY FUND, HOW PROVIDED.] The city council of each city, not exceeding in population fifty thousand inhabitants, and each village or township board of every village and township containing over five hundred inhabitants, shall have power to establish and maintain a public library and reading room, and for such purpose may annually levy and cause to be collected, as other taxes are collected, a tax not exceeding four mills on each dollar of the taxable property of such city, village or township, to constitute the library fund, which fund shall be kept separate and apart from the other money of the city, village or township, by the treasurer thereof, and the same shall be used exclusively for such purpose; provided, that no library shall be so established

without first receiving the approval of the majority of the electors of such city, village or township, voting on such question at any general election at which it may be submitted to a vote.

§ 2. EMERGENCY.] Whereas, an emergency exists in that there is no present law covering the provisions embraced in the first section of this act, therefore it shall be in force on and after its passage and approval.

Approved March 8, 1901.

FREE PUBLIC SCHOOLS.

CHAPTER 98.

[S. B. 200.]

FREE PUBLIC SCHOOLS.

AN ACT to Define the System of Free Public Schools of the State.

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

§ 1. FREE PUBLIC SCHOOLS.] The state university and school of mines at Grand Forks, the agricultural college at Fargo, the state normal schools at Valley City and Mayville, the deaf and dumb asylum at Devils Lake, the industrial school and school of manual training at Ellendale, a scientific school at Wahpeton, the school of forestry of Bottineau, and all other schools heretofore established by law and maintained by taxation constitute the system of free public schools of the state.

Approved March 12, 1901.

FIRE DEPARTMENTS.

CHAPTER 99.

[H. B. 169.]

FILING OF CERTIFICATES OF FIRE DEPARTMENTS OF CITIES.

AN ACT to Amend Sections 2466 of the Revised Codes of 1899, Relating to Filing of Certificates of Fire Departments of Cities.

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

§ 1. AMENDMENT.] That section 2466 of the Revised Codes of 1899, be, and the same is hereby amended to read as follows:

§ 2466. FAILURE TO FILE CERTIFICATE A WAIVER.] If the certificate required by section 2462 is not filed with the auditor on or before the 31st day of October in each year, the city, town or village so failing to file such certificate shall be deemed to have waived and relinquished its right for such year to the appropriation herein provided for; provided, however, that in case where any city has filed its certificate for three successive years and drawn money thereunder for such years, the certificate herein provided for may be filed at any time up to and including March 1st of the succeeding year without waiving the right to the appropriation herein named.

§ 2. EMERGENCY.] Whereas, an emergency exists in that certain cities will lose their right to the appropriation unless the time for filing of the certificate is extended, this act shall be in full force and effect from and after its passage and approval.

Approved February 28, 1901.

FIRE INSURANCE.

CHAPTER 100.

[S. B. 40.]

FIRE INSURANCE.

AN ACT in Relation to the Transaction of Business by Fire Insurance Companies or Associations Otherwise Than Through Resident Agents.

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

§ 1. FIRE INSURANCE. FOREIGN AGENTS.] No insurance company or association, not incorporated under the laws of this state, authorized to transact business herein, shall make, write, place or cause to be made, written or placed, any policy, duplicate policy or contract of insurance of any kind or character, or any general or floating policy, upon property situated or located in this state except after the said risk has been approved in writing, by an agent who is a resident of this state, regularly commissioned and licensed to transact insurance business therein, who shall countersign all policies so issued and make a record of the same on books provided for that purpose and receive the commission thereon when the premium is paid, to the end that the state may receive the taxes required by law to be paid on the premiums collected for insurance on all property located in the state, and the agents be paid the commission thereon.

Nothing in this act shall be construed to prevent any such insurance company or association, authorized to transact business in this state, from issuing policies at its principal or departments offices, covering property in this state, provided, that such policies are issued upon applications procured and submitted to such company by agents who are residents of this state, and licensed to transact the business of insurance herein, and who shall countersign all policies so issued and receive the commission thereon when paid; provided, no provision of the section is intended to or shall apply to direct insurance covering the rolling stock of railroad corporations or property in transit, while in the possession and custody of railroad corporations or other common carriers, nor to the movable property of such common carriers used or employed by them in their business as common carriers of freight, merchandise or passengers.

§ 2. CANNOT REINSURE.] No fire insurance company or association shall reinsure, or assume as a reinsuring company or otherwise in any manner or form whatever, the whole or any part of any risk or

liability, covering property located in this state, of any insurance company or association not authorized to transact business in this state.

§ 3. INSURANCE COMMISSIONER. EXAMINE RECORDS, BOOKS, ETC.] Whenever the commissioner of insurance shall have or receive information that any fire insurance company or association, not incorporated under the laws of this state, has violated any of the provisions of section 1 of this act, he is authorized, at the expense of such company or association, to examine, by himself or his accredited representative, at the principal office, or offices of such company or association, located in the United States of America, and also at such other offices or agencies of such company or association as he may deem proper, all books, records and papers of such company or association, and may examine under oath, the officers and managers and agents of such company or association as to such violation or violations. The refusal of any such company or association to submit to such examination or to exhibit its books and records for inspection shall be presumptive evidence that it is violating the provisions of the first section of this act, and shall subject it to the penalties prescribed and imposed by this act.

§ 4. PENALTY, FOR VIOLATION.] Any insurance company or association violating or failing to observe and comply with any of the provisions of this act, applicable thereto, shall be subject to and liable to pay a penalty of five hundred (\$500) dollars for each violation thereof and for each failure to observe and comply with any provisions of this act; such penalty may be collected and recovered in an action brought in the name of the state in any court having jurisdiction thereof. Any insurance company or association which shall neglect and refuse for thirty days after judgment in any such action to pay and discharge the amount of such judgment shall have its authority to transact business in this state revoked by the commissioner of insurance and such revocation shall continue for at least one year from the date thereof, nor shall any insurance company or association whose authority to transact business in this state shall have been so revoked be again authorized or permitted to transact business herein until it shall have paid the amount of any such judgment, and shall have filed in the office of the commissioner of insurance a certificate signed by its president or other chief officer to the effect that the terms and obligations of the provisions of this act are accepted by it as a part of the conditions of its right and authority to transact business in this state.

§ 5. REPEAL.] All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

EMERGENCY.] Whereas, an emergency exists in that a large portion of the fire insurance business is written by non-resident agents, thereby making it impossible for the state to collect the taxes justly due it on account of such business, therefore this act shall take effect and be in force from and after its passage and approval.

Approved February 9, 1901.

FORECLOSURES.

CHAPTER 101.

[S. B. 198.]

FORECLOSURE OF MACHANIC'S LIENS ON HOMESTEADS.

AN ACT Regulating the Filing and Foreclosure of Mechanic's Liens Upon Lands Held or Occupied Under a Filing Under Any of the Land Laws of the United States.

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

§ 1. MECHANIC'S LIENS. FILING AND FORECLOSURE.] Whenever any work or labor is done, or materials furnished for the erection or construction of any building or improvement upon lands held or occupied under a filing under any of the land laws of the United States, and by virtue of any contract with the party so holding or occupying said lands, the party so furnishing such work or labor, or materials, shall upon compliance with the provisions of chapter 77 of the Civil Code, have a lien upon such building or improvement for the value of the work and labor, or materials, so furnished, and the party enforcing such lien may have such building or improvement sold on execution and may remove the same from such land within a time to be fixed by the court.

Approved March 12, 1901.

FUGITIVES FROM JUSTICE.

CHAPTER 102.

[S. B. 86.]

RETURN OF FUGITIVES FROM JUSTICE.

AN ACT to Amend Section 8494 of the Revised Codes of 1899, Relating to the Governor Demanding the Return of Fugitives From Justice in this State of the Executive Authority of Any Other State or Territory Within the United States, Providing for the Appointment of Agents to Receive and Return Such Fugitives, and Providing for Payment of Such Agents.

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

§ 1. AMENDMENT.] That section 8494 of the Revised Codes of 1899, be, and the same is, hereby amended to read as follows:

§ 8494. GOVERNOR MAY DEMAND FUGITIVES. APPOINT AGENTS FOR RETURN OF. PAYMENT OF AGENTS.] The governor of this state may in any case authorized by the constitution and laws of the United States, demand of the executive authority of any other state or territory within the United States, any fugitives from justice or any person charged with the commission of treason, felony, or other crimes in this state, and appoint agents to receive such persons for and on behalf of this state. The account of any such agent or agents employed for such purpose shall in cases of treason and felony be paid by the state, and for other crime be audited by the board of county commissioners of the county in which the crime was committed, and paid by such county; provided, that only the sheriff of said county, or one of his deputies, or a constable or policeman thereof shall be appointed such agent, and such agent shall not be paid more than his actual expenses, and a per diem of three dollars while in the actual discharge of his duty.

Approved March 12, 1901.

GAME AND FISH.

CHAPTER 103.

[H. B. 67.]

GAME AND FISH.

AN ACT to Amend Section 7679 of the Revised Codes of 1899, Being Chapter 93 of the Session Laws of 1899, Relating to Game and Fish.

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

§ 1. AMENDMENT.] That section 7679 of the Revised Codes of 1899, be amended so as to read as follows:

§ 7679. CATCHING FISH RESTRICTED.] Every person who either:

1. Takes, catches, kills or destroys any fish of any kind in any of the lakes, streams or other public waters of this state in any manner other than by angling with hook and line, or

2. Between the first day of January and the following first day of May in each year, takes, catches, kills or destroys in any manner, by any device in any of the public waters of this state, any pike, pickerel, perch, croppie, trout, buffalo, bass, or muskalonge for any purpose other than for propagating or breeding the same, is guilty of a misdemeanor, and upon conviction thereof is punishable by a fine of not less than five and not exceeding twenty-five dollars, and for every subsequent offense by imprisonment in the county jail not exceeding thirty days, or by a fine of not less than ten dollars, and not exceeding one hundred dollars, or by both.

3. Provided, further, that it shall be unlawful between the first day of October and the following first day of May, for any person to fish in any manner in any of the waters of this state wherein any fish have been placed for propagating or breeding, by either the state or the national government, and the same penalty shall apply as provided elsewhere in this act.

Approved March 12, 1901.

CHAPTER 104.

[H. B. 167.]

PROHIBITING SALE OF GAME BIRDS AND ANIMALS.

AN ACT to Prohibit the Sale of Certain Game Birds and Animals Within the State, and Providing a Penalty for Violation of the Same.

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

§ 1. GAME BIRDS AND ANIMALS. TO PROHIBIT SALE OF CERTAIN.] Every person who sells or exposes for sale, or has in his possession, with intent to sell or ship, for the purpose of selling to any person within the state, by common or private carrier, at any time, any prairie chickens, pinnated grouse, sharp tailed grouse, ruffled grouse, woodcock, or deer, is guilty of a misdemeanor, and upon conviction thereof before any justice of the peace of the county, is punishable by a fine of not exceeding ten dollars for each of the game birds or deer herein mentioned, sold, exposed for sale, or shipped, or had in his possession with the intent to sell or ship as aforesaid.

Approved March 12, 1901.

CHAPTER 105.

[S. B. 92.]

ANTELOPE.

AN ACT to Prevent the Extermination of Antelope.

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

§1. ANTELOPE. EXTERMINATION OF.] It shall not be lawful to hunt, shoot at, kill, or capture any antelope within the limits of the state of North Dakota at any time after this act shall become a law, prior to January first, nineteen hundred and eleven.

§ 2. PENALTY.] Any person violating the provisions of this law shall be deemed guilty of a misdemeanor, the same to be prosecuted as are the other violations of the game laws of this state; and upon conviction thereof the offender shall be fined not less than \$100 nor more than \$500, and imprisoned for a term not exceeding three months for each offense, in the county jail in and for the county wherein the act was committed.

Approved March 8, 1901.

CHAPTER 106.

[H. B. 18.]

GAME AND FISH LAWS.

AN ACT to Amend Section 7677 of Chapter 72 of the Revised Codes of 1899, Relating to Game and Fish.

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

§ 1. AMENDMENT.] That section 7677 of chapter 72 of the Revised Codes of 1899, be amended to read as follows:

§ 7677. SHOOTING OR KILLING RESTRICTED. PENALTY.] Every person who either

1. Shoots or kills any prairie chicken, pinnated grouse, sharp tailed grouse, ruffed grouse, or woodcock, between the fifteenth day of October, and the first day of September following, or any song bird or insect-eating bird, except snipe, or plover, at any time, or

2. Shoots, kills, or takes any quail, English or Chinese pheasant or wild swan, until after the first day of September, A. D. 1905, and after that time between the fifteenth day of October and the first day of September following; or

3. Shoots or kills any wild duck between the first day of May and the first day of September following; or

4. Shoots or kills any wild goose, crane, or brant between the first day of May and the first day of September following; or

5. Shall at any time catch or kill any of the birds permitted to be killed by this act at any time in any other manner than by shooting them with a gun held to the shoulder by a person discharging the same; or

6. Shall at any time set, lay or prepare any traps, snare, net, bird line, medicated, drugged or poisoned food or grain, or swivel gun, or any contrivance or device whatever with intent to catch, take or kill any of the birds in this act mentioned, whether the same are caught or not, or make use of any artificial light, battery or any other deception, contrivance or device whatever, with intent to attract or deceive any of the birds in this act mentioned, except decoys and blinds may be used in hunting wild geese, ducks and brants. No person shall at any time hunt or shoot from any boat, canoe or contrivance or device whatever on any waters in this state, between the hours of five p. m. and eight a. m., and no person shall at any time make use of, hunt or shoot from any floating battery, sink boat or sunken tub or any similar device on any of the waters of this state.

7. Wantonly destroys any nest or eggs of any of the birds mentioned in subdivisions 1, 2, 3 or 4 of this section; or

8. Shoots or kills any buffalo, moose, elk, caribou, or mountain sheep, at any time, or any deer between the first day of December and the tenth day of November following; or

9. Shoots, kills, traps or takes any beaver or otter at any time prior to the tenth day of November, A. D. 1905, or thereafter between the tenth day of December and the tenth day of November following;

or

10. At any time uses or employs any hound or dog in running or driving any of the animals mentioned in subdivision 8 of this section;

or

11. Sets any spring or other gun, trap snare, or other device to kill, wound or destroy any of the animals mentioned in subdivision 8 of this section; or

12. Shoots or kills in any one day more than twenty-five of the game birds mentioned in subdivisions 1, 2, 3 or 4 of this section, or in any one season more than five of the animals mentioned in subdivision 8 of this section, is guilty of a misdemeanor, and upon conviction thereof before any justice of the peace of the county, is punishable by a fine of not exceeding ten dollars, for each of the birds mentioned in subdivisions 1, 2, 3 or 4 of this section, so shot or killed, or nest, or eggs, so destroyed, and for each violation of subdivisions 5 or 6 of this section, and not exceeding one hundred dollars for each animal mentioned in subdivisions 8 and 9 of this section, so shot, killed, trapped or taken, and not exceeding one hundred dollars for each violation of subdivisions 10, 11 or 12 of this section.

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

Approved March 12, 1901.

GOPHER TAX.

CHAPTER 107.

[H. B. 129.]

GOPHER TAX.

AN ACT to Amend Section 1322, Chapter 18, Revised Codes, 1899,
Relating to Gopher Tax.

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

§ 1. AMENDMENT.] That section 1322, chapter 18, of the Revised Codes of 1899, be amended to read as follows:

§ 1322. GOPHER TAX.] The board of county commissioners of any county in this state may, at any time fixed by law, for the levy and assessment of taxes, levy a tax not exceeding four mills on the dollar of the assessed valuation, upon all real estate in such county. The proceeds of which shall be used solely for the purpose of promoting the destruction of gophers in such county. The fund provided to be raised in accordance with this section 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 board of county commissioners, at such time and in such manner as is by such board deemed best to secure the abatement and extermination of the gopher pest.

Approved March 8, 1901.

INJUNCTIONS.

CHAPTER 108.

[S. B. 79.]

RELATING TO INJUNCTIONS.

AN ACT to Amend Section 5046 of the Revised Codes of 1899, Relating to Injunctions.

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

§ 1. AMENDMENT.] That section 5046 of the Revised Codes of 1899, relating to injunctions, be amended and re-enacted so as to read as follows:

§ 5046. WHEN INJUNCTION NOT GRANTED.] An injunction cannot be granted.

1. To stay a judicial proceeding pending at the commencement of the action in which the injunction is demanded, unless such restraint is necessary to prevent a multiplicity of such proceedings.

2. To stay proceedings in a court of the United States.

3. To stay proceedings in any other state upon a judgment of a court of that state.

4. To prevent the execution of a public statute by officers of the law for the public benefit.

5. To prevent the breach of a contract, the performance of which could not be specifically enforced.

6. To prevent the exercise of a public or private office in a lawful manner by the person in possession.

7. To prevent a legislative act by a municipal corporation.

Approved March 12, 1901.

INSURANCE PREMIUMS.

CHAPTER 109.

[S. B. 167.]

PAYMENT OF INSURANCE PREMIUMS.

AN ACT to Amend Sections 3137 and 3142 of the Revised Codes of 1899, Relating to Insurance Premiums to be Paid, Conditions of Policy, Assessments and Liability of Policy Holders.

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

§ 1. AMENDMENT.] That section 3137, be, and the same is, hereby amended so as to read as follows:

§ 3137. CASH PREMIUM OR NOTE GIVEN FOR INSURANCE. CONDITIONS OF POLICY.] Every person insuring grain against loss or damage by hail, shall, except when a cash premium is paid, execute and deliver to such company his promissory note, bearing even date with the policy issued to him therefor, which note shall be secured by real or chattel mortgage security on property located in the county where the insured resides, of double the value of such note, which note or cash shall not be a limit to the liability of the person so insured. In case of insurance against loss or damage by hail, the directors of such company may issue policies, signed by the president and secretary, agreeing in the name of the company to pay all losses or damages by hail, or such pro rata share of such loss or damage as can be paid out of the highest limit of the liabilities of the members, which liabilities shall be established by the by-laws of such company before the issuing of any policy of insurance against loss or damage by hail, which limit shall not be less than that prescribed by law.

§ 3142. ASSESSMENTS. BASIS OF. WHEN MADE.] Whenever the amount of any loss shall have been ascertained, if it exceed the amount of the cash funds of the company applicable to the payment of such loss, the president shall convene the directors of the company, who shall make an assessment sufficient at least to pay such loss, from all members of the company, in proportion to the amount of insurance carried. In case that any assessment so made shall not be collected at the time same is due and that the amount collected is insufficient to pay the losses or expenses of the company, then a second assessment shall be made in the manner above provided, upon the policy holders who have paid their assessment for an amount that shall be sufficient to pay all losses and expense in full. Such assessments shall be made from time to time in the manner herein provided until a sufficient amount is collected to

pay all losses and expenses in full. In case any such delinquent assessment is collected after other assessments have been made and collected, then such assessment so collected shall be applied towards repaying the policy holders who have paid more than their just share in proportion to the amount of insurance carried by each. No assessment for loss or damage shall be made prior to the first day of September of the year the loss occurred.

Approved March 13, 1901.

JUDGMENTS.

CHAPTER 110.

[S. B. 199.]

METHOD OF REMOVING LIENS AND JUDGMENTS.

AN ACT Providing for the Removal of Judgments, and for Continuing the Lien Thereof, and Prescribing the Method of Renewing the same Without Suit for an Additional Term of Ten Years and Allowing an Execution Thereon After Renewal.

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

§ 1. JUDGMENTS. REMOVAL OF. CONTINUING LIEN.] That any judgment directing in whole or in part the payment of money which has been heretofore, or may hereafter, be duly entered and docketed in the book in the office of the clerk of any district court of this state, whether said judgment was originally rendered by the court in whose clerk's office the same is entered, or whether entered upon a transcript of judgment from any other county in the state, pursuant to sections 5490 and 5491, Revised Codes of 1899, or upon a certified transcript of the docket entry of a judgment or decree of any district court or circuit court of the United States, within the state of North Dakota, pursuant to sections 5492 and 5493, Revised Codes of 1899, or entered upon a certified transcript of the judgment of a justice of the peace, pursuant to section 5498, Revised Codes of 1899, or entered pursuant to any other provision of law, may be renewed, and the lien thereof continued for a further period of ten years from and after the filing of the affidavit for renewal, as hereinafter provided.

§ 2. AFFIDAVIT. WHO MAY MAKE. WHEN.] Any judgment creditor, his personal representative, agent, assignee or attorney may at any time within the ninety days next preceding the expiration of

the ten year period within which a judgment may be a lien under existing law, may make an affidavit, entitled as in the original judgment, setting forth the names of the parties, plaintiff and defendant, the name of the court in which docketed, the date and amount of the original judgment, the number of the judgment book in which entered and the page of the entry of the same, and such affidavit shall set forth the name of the owner of said judgment, and the source of his title thereto, if not the party in whose name the judgment was entered, a statement of each assignment of said judgment necessary to trace the title thereof from the original judgment creditor, and if the judgment was entered upon a certified transcript from any other court or county, this fact shall be made to appear, together with a statement of each county in which a transcript of said judgment has been filed, that no execution is outstanding and unreturned upon said judgment, either in the county of its original entry or in any county in which the same has been transcribed, or, if any execution is outstanding, that fact shall be stated, the date and amount of all payments upon said judgment, whether collected under execution or otherwise, and said affidavit shall make it appear that all payments have been duly credited upon said judgment, and whether any amount has been realized that has not been credited upon the judgment and upon the records in the court in which the judgment was originally rendered, or in any other court in which it has been transcribed, that there are no off-set or counterclaims against the person for whose benefit the renewal is sought and in favor of the judgment debtor or debtors, and if a counterclaim or set-off does exist in favor of the judgment debtor, the affidavit must contain a statement of the amount, if ascertained or certain, and an offer to allow the same as a credit pro tanto upon the amount due from the judgment debtor; or, if the counterclaim or set-off is unsettled or undetermined, an offer that when the same shall be settled or determined, by suit or otherwise, that the same may be allowed as a payment or credit upon said judgment to the full amount which may subsequently be adjudged due the judgment debtor thereon. Said affidavit shall also show the exact amount due upon said judgment, after allowing all off-sets and counterclaims known to the affiant, and must set forth any other facts or circumstances necessary to a complete disclosure as to the exact condition of said judgment; said affidavit must be verified positively by the person making it, and not on information and belief, and the filing of such affidavit in the office of the clerk of the district court where said judgment is duly entered and docketed, shall operate to renew and revive said judgment to the extent of the balance shown due in said affidavit for the period of ten years from the date of the filing of such affidavit and the docketing of said affidavit of renewal, as hereinafter set forth. An execution may issue upon said judgment as renewed under the same conditions and to same force and effect within said renewal period as upon a judgment primarily rendered and entered at the date of said renewal; and all other remedies for

the enforcements of judgments shall apply to the enforcement of said renewal judgment.

§ 3. CLERK SHALL ENTER AFFIDAVIT.] The affidavit mentioned in the preceding section shall be immediately entered by the clerk at length in the judgment book, and the clerk shall enter in his judgment book forthwith, after a statement of said original judgment, the date of said renewal, the fact of renewal, and the amount for which said judgment is renewed, and the entry and docketing of said affidavit of renewal shall operate to continue the lien of said judgment on all the real property, excepting the homestead of the judgment debtor or debtors, in the county where the same is so docketed, which he or they may have at the time of the docketing thereof in the county in which such real estate is situate, or in which he or they shall acquire at any time thereafter for ten years from the time of such docketing in the county where the same is so entered; and a certified copy of said renewal affidavit and of the docket entries thereon, certified by the clerk of the district court wherein the same is filed, entered and docketed, as aforesaid, may be by the plaintiff filed and docketed in any other county of the state of North Dakota in which a transcript of the original judgment was filed, pursuant to sections 5490 and 5491 of the Revised Codes of 1899.

EMERGENCY.] Whereas, there is no provision of law whereby the lien of the judgment may be continued beyond the period of ten years, as now limited, or remedies for the collection of the same, or the amount due thereon; provided, therefore, there is an emergency existing because of which this act shall take effect and be in force from and after its passage and approval.

Approved March 12, 1901.

CHAPTER 111.

[S. B. 141.]

STAY OF EXECUTION OF JUDGMENT.

AN ACT Entitled an Act to Provide When Execution of Judgment in Civil Actions May Be Stayed.

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

§ 1. JUDGMENTS. EXECUTION OF.] Entry of judgments upon the decision of the court or the verdict of a jury in civil actions in the district court shall not be stayed; but the court may stay execution of such judgment for such reasonable time as may be necessary to move for a new trial in the action, or to perfect an appeal from the judgment entered therein.

§ 2. EMERGENCY.] There being no provision of law for the stay of execution of judgments in civil actions, this act shall take effect and be in force from and after its passage and approval.

Approved March 8, 1901.

CHAPTER 112.

[H. B. 166.]

SATISFACTION OF JUDGMENTS.

AN ACT to Provide for the Satisfaction of Judgments When Any Person Having the Power or Authority to Satisfy the Same Cannot Be Found, or Refuses to Satisfy the Same, and Prescribing the Duties of the Clerk of the Court in Relation Thereto.

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

§ 1. SATISFACTION OF JUDGMENTS.] That whenever any person against whom there exists a judgment for the payment of money, or on whose property such a judgment is a lien, files in the office of the clerk of the court in which said judgment was rendered, an affidavit setting forth the existence of such judgment, and that he desires to pay the same, and has made diligent effort, but has been unable to find any person having power or authority to satisfy the same, or that the person having power or authority refuses to satisfy the same, such person may pay the amount shown by the records of such court to be due on such judgment to the clerk of the court in which such judgment was entered, and such clerk shall receive such money when tendered in payment of any such judgment, and shall thereupon note satisfaction of such judgment on the judgment docket, and on the register of the action in which such judgment was entered, and shall execute under his hand and official seal, and deliver to the person paying such judgment, a certificate reciting the receipt by him, said clerk, of such money in satisfaction of such judgment, and that the same is fully paid and satisfied of record. Such clerk shall immediately notify all persons appearing of record to have any interest in, or lien upon said judgment, including the attorney of record of the original judgment creditor, that he has received the amount due on such judgment and has satisfied the same of record, which notice shall be given in writing and be mailed by registered letter to the last known postoffice address of each of such persons, and the registry receipts for such letters shall be filed with the other papers in the case. Such clerk, shall, upon demand therefor, pay over such money to the person entitled thereto, and take his duplicate receipts therefor, one of which said clerk shall retain, and the other he shall file in the action in which such judgment was rendered, provided, however, that such clerks shall not discharge any judgments until the time for perfecting any appeal provided by law therefor has expired, and any discharge in violation of this proviso shall be void without prejudice to a judgment creditor or his assigns in any way.

§ 2. EMERGENCY.] Whereas, an emergency exists in that there is no provision of law for the satisfaction of judgments when any person having the power or authority to satisfy the same cannot be found, this act shall take effect and be in force from and after its passage and approval.

Approved March 13, 1901.

JURORS.

CHAPTER 113.

[H. B. 73.]

JURORS.

AN ACT to Amend Sections 450, 453, 456 and 457 of the Revised Codes of North Dakota, Relating to Jurors and the Manner of Drawing Same.

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

§ 1. AMENDMENT.] That sections 450, 453, 456 and 457 of the Revised Codes of North Dakota, be amended so as to read as follows:

§ 450. DRAWING JURORS. MANNER OF.] At such meeting the clerk of the district court, or his deputy, shall strike from such juror list the names of any person known to such officers to be dead or to have removed from such county, and said clerk or his deputy, shall then write the name of each person on such juror list on a separate ticket, and the remainder of the officers at such meeting shall compare such tickets with such list, and when all of such names on such tickets are found to correspond with such list, such tickets shall be folded and placed in a box or some suitable receptacle and shaken.

§ 453. NUMBER OF NAMES TO BE ALWAYS AT MAXIMUM.] Such number of two hundred names shall at all times be kept full, when possible, by completing the number after each jury term of court; and at the end of each jury term of the district court the clerk shall make requisition upon the county commissioners for the furnishing of as many names as have been drawn so as to keep such list full. And at the subsequent meeting the board of county commissioners shall proceed to apportion as hereinbefore provided for making up the whole of such list, and the same proceedings shall be had as to such names so required, as are herein directed to be taken in making said list full,

except, that the posting of notices shall not be required, and that the board of supervisors of any township, the board of aldermen or the city council of any city, or the board of trustees of any village, need not be specially called to draw any such names, but may do so at its next regular meeting. A failure to comply with any of the provisions of this section shall not be ground for challenge of any juror, either grand or petit, or to the panel.

§ 456. COURT MAY ORDER JURY FORTHWITH.] If all persons summoned as grand or petit jurors do not appear before the court, or if for any cause the panel of the grand or petit jurors is not complete, or if no jury is drawn as above provided, the judge of the district court shall issue an order to the clerk of such court requiring a sufficient number of persons to be summoned to serve as jurors on the regular panel of grand or petit jurors, and in such order shall specify the number of jurors necessary to complete such panel, and the time and place where they shall appear. Such clerk or his deputy shall forthwith convene the county board to select jurors, being the officers named in section 449 of the political code, and such board shall forthwith proceed to select the names of the number of persons possessing the qualification of jurors directed to be summoned, which jurors may be selected by a majority of the members of said board present at the meeting to be convened as aforesaid, and thereupon a venire for the persons whose names shall have been so selected shall be issued by the clerk, or his deputy, and shall be served in like manner as provided for the service of the venire for the jurors of the regular panel.

§ 457. SUMMONS TO COMPLETE SPECIAL PANEL.] Whenever the panel of petit jurors shall be exhausted by the challenges of either party in any action, the judge of the court shall order the sheriff, deputy sheriff, or coroner to summon without delay a sufficient number of persons possessing the qualifications of jurors, to complete the number requisite for a jury in that particular case. Provided, that no person who shall have served as a juror in such court within one year next immediately preceding the first day of the term of court, in which such action is triable, shall be called, or be qualified to act as a juror in such case.

Approved March 12, 1901.

CHAPTER 114.

[H. B. 66.]

RELATING TO JURORS.

AN ACT to Amend Section 441 of the Revised Codes of North Dakota,
Relating to Jurors.

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

§ 1. AMENDMENT.] That section 441 of the Revised Codes of the state of North Dakota, be amended so as to read as follows:

§ 441. QUALIFICATIONS OF JURORS.] All male citizens residing in any of the counties of this state, having the qualifications of electors, and being over the age of twenty-one years, and of sound mind and discretion, and not judges of the supreme or district courts, clerks of the supreme or district courts, sheriff, coroner, attorneys and counselors at law engaged in practice, or jailors, and not subject to any bodily infirmity amounting to a disability, and who have not been convicted of a criminal offense punishable by imprisonment in the penitentiary, and not subject to disability on account of the commission of any offense which by special provisions of law disqualifies him, are and shall be competent persons to serve on all grand and petit juries within their counties or subdivisions respectively; provided, that persons over sixty years of age, ministers of the gospel, county judges, county commissioners, registers of deeds, practicing physicians, registered pharmacists, postmasters, and carriers of the United States mail, shall not be compelled to serve as jurors, neither shall any member in good standing of any regularly organized fire company be compelled to serve as jurors in any of the courts of this state.

Approved March 12, 1901.

KIDNAPPING.

CHAPTER 115.

[S. B. 76.]

THE CRIME OF KIDNAPPING.

AN ACT to Amend Section 7110, Chapter 20, of the Revised Codes of 1899, Relating to the Crime of Kidnapping.

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

§ 1. AMENDMENT.] That section 7110, chapter 20, of the Revised Codes of 1899, defining kidnapping and providing a penalty therefor, be amended so as to read as follows:

§ 7110. KIDNAPPING DEFINED. DEFENSE. EXCEPTION.] A person who willfully

1. Seizes, confines, inveigles or kidnaps another, with intent to cause him, without authority of law, to be secretly confined or imprisoned within this state, or to be sent out of this state, or in any way held to service or kept or detained against his will; or

2. Leads, takes, entices away or detains a child under the age of sixteen (16) years, with intent to keep or conceal it from its parent, guardian or other person having lawful care or control thereof, or to extort or obtain money or reward for the return or disposition of the child, or with intent to steal any article upon the person of the child, or

3. Abducts, entices or by force or fraud unlawfully takes or carries away another at or from a place without the state, or procures, advises, aids or abets such an abduction, enticing, taking or carrying away, and afterwards sends, brings, has or keeps such person, or causes him to be kept or secreted within this state, is guilty of kidnapping, and is punishable by imprisonment in the penitentiary, not less than five (5) nor more than twenty (20) years.

REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed.

§ 2. EMERGENCY.] Whereas, there being no law providing a penalty so severe as to sufficiently discourage the violation of the law, an emergency exists, therefore this act shall take effect and be in force from and after its passage and approval.

Approved February 8, 1901.

LAND COMMISSIONER.

CHAPTER 116.

[H. B. 155.]

DUTIES OF LAND COMMISSIONER.

AN ACT to Amend Sections 182, Revised Codes, 1899, Defining the Duties of the Land Commissioner.

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

§ 1. AMENDMENT.] That section 182, Revised Codes, 1899, be, and the same is, hereby amended to read as follows:

§ 182. DUTIES OF LAND COMMISSIONER.] The commissioner, under such directions as may be given by the board of university and school lands, shall have general charge and supervision of all lands belonging to the state, of all lands in which the state has an interest or which are held in trust by the state. He shall have the custody of all maps, books and papers relating to any of the public lands mentioned in this article. He shall procure the proper books, maps and plats in which to keep a complete record of all lands owned or held in trust by the state for schools, public buildings, and for all other purposes, and shall keep true records of all the sales, leases, permits, patents, deeds and other conveyances of such lands made by the state, amount of money paid, date of sale and payment, description of lands sold or leased, number of acres thereof, name of purchaser and designation of the fund that should be credited therewith. He shall direct all appraisements, sales, leases; shall execute all contracts of sale, leases, permits or other evidences of disposal of lands, subject to approval by the board. Upon all contracts, leases or permits issued by the commissioner, he shall certify the book and page where the same is recorded. He shall have an official seal with a proper device thereon; and the seal of the commissioner affixed to any contract of purchase, receipts, or other instruments issued by him, duly countersigned by him as approved by the board, according to the provisions of this article, is prima facie evidence of the due execution of such contract or other paper. He shall bi-ennially report to the legislative assembly, through the board, his work during the preceding term, showing the quantity of lands sold or leased, and the amount received therefor, the amount of interest moneys received to the credit of the several funds, expense of administration of his department, and all such other matters relating to his office as shall be necessary. It shall also be the duty of the land commissioner to receive and present to the board of university and school lands all offers for sale of bonds. He shall also prepare all bonds in connection with the investment of the permanent school

fund. He shall keep such books as may be necessary to register and describe all bonds and mortgages purchased or taken by the board of university and school lands for the benefit of any of the permanent funds under its control. Such books shall be ruled so as to permit the registry of the name and residence of the person offering to sell any such bonds or mortgages, the district for which such offer is made, a description of the property covered by the mortgage, 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. He shall also keep in suitable books a record showing a detailed quarterly statement of the condition of all the permanent funds under control of said board, the amount of each fund, how invested, when due, interest paid and any other act in any manner connected with the management of said funds, and shall bi-ennially report all such investments to the governor, to be laid before the legislative assembly. All such records and record books shall at all times be open for inspection by the public.

REPEAL.] All sections or parts of sections in conflict with this act are hereby repealed.

§ 2. EMERGENCY.] Whereas, an emergency exists in that there is now no provision for taking charge of the preparation of bonds and mortgages in the land commissioner's office, this act shall take effect and be in force from and after its passage and approval.

Approved March 7, 1901.

LEGISLATIVE OFFICERS AND EMPLOYES.

CHAPTER 117.

[S. B. 12.]

LEGISLATIVE OFFICERS AND EMPLOYES.

AN ACT to Amend Section 28 of the Revised Codes of North Dakota, 1899, the Same Being Chapter 104 of the Session Laws of 1899, Relating to Legislative Officers and Employes and Their Compensation.

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

§ 1. AMENDMENT.] That section 28 of the Revised Codes of North Dakota, 1899, the same being chapter 104 of the session laws of 1899, be, and the same is, hereby amended and re-enacted to read as follows:

§ 28. OFFICERS AND EMPLOYES. COMPENSATION.] The following shall be the officers and employes of the senate and the house of representatives of the legislative assembly, with the compensation as herein provided for:

For the senate:

A president pro tempore, whose compensation shall be two dollars per day.

One secretary, whose compensation shall be six dollars per day.

Two assistant secretaries, whose compensation shall be five dollars per day.

One enrolling and engrossing clerk, whose compensation shall be five dollars per day.

One bill clerk, whose compensation shall be five dollars per day.

One stenographer, whose compensation shall be five dollars per day.

One stenographer for the senators, whose compensation shall be five dollars per day.

One sergeant-at-arms, whose compensation shall be five dollars per day.

One doorkeeper, whose compensation shall be four dollars per day.

One messenger, whose compensation shall be four dollars per day.

One postmaster, whose compensation shall be four dollars per day.

Four pages, whose compensation shall be two dollars per day.

One proof reader, whose compensation shall be five dollars per day.

One chaplain, whose compensation shall be three dollars per day.

One janitor, whose compensation shall be three dollars per day.

One watchman, whose compensation shall be four dollars per day.

One clerk of the judiciary committee, whose compensation shall be five dollars per day.

One clerk of the appropriation committee, whose compensation shall be five dollars per day.

One bill room clerk, whose compensation shall be four dollars per day.

One journal clerk, who shall be under the supervision of the secretary of the senate, and whose compensation shall be five dollars per day.

One assistant journal clerk, whose compensation shall be five dollars per day.

The journal of the senate shall 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 dollars.

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 each receive a compensation of four dollars per day, and such janitors as may be necessary by the senate, who shall receive three dollars per day.

For the house of representatives:

A speaker, whose compensation shall be two dollars per day.

One chief clerk, whose compensation shall be six dollars per day.

Two assistant clerks, whose compensation shall be five dollars per day.

One chief enrolling and engrossing clerk, whose compensation shall be five dollars per day.

One bill clerk, whose compensation shall be five dollars per day.

One stenographer, whose compensation shall be five dollars per day.

One stenographer for members of the house, whose compensation shall be five dollars per day.

One sergeant-at-arms, whose compensation shall be five dollars per day.

Two doorkeepers, whose compensation shall be four dollars per day, and who shall be assistants to the sergeant-at-arms.

One messenger, whose compensation shall be four dollars per day.

One postmaster, whose compensation shall be four dollars per day.

One chaplain, whose compensation shall be three dollars per day.

Six pages, whose compensation shall be two dollars per day.

Two janitors, whose compensation shall be three dollars per day.

Two clerks in charge of bill room, whose compensation shall be four dollars per day.

One watchman, whose compensation shall be four dollars per day.

One clerk of the judiciary committee, whose compensation shall be five dollars per day.

Two attendants on cloak room, whose compensation shall be three dollars per day.

One journal clerk, whose compensation shall be five dollars per day, and who shall be under the supervision of the chief clerk of the house.

One assistant journal clerk, whose compensation shall be five dollars per day.

The journal of the house shall 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 dollars. In addition to the above there shall be appointed by the speaker, when deemed necessary by the house, such assistant and enrolling and engrossing clerks as are actually necessary, who shall receive four dollars per day, and such janitors as may be deemed necessary by the house, and who shall receive three dollars per day.

§ 2. TIME TO TAKE EFFECT.] This act shall extend to and include all employes herein created, of the seventh legislative assembly, and such employes shall draw the compensation herein provided for from the day of their being sworn in.

§ 3. EMERGENCY.] Whereas, an emergency exists in this that some of the officers herein provided for are actually employed in the present legislative assembly and there is no existing law regulating the same, therefore this act shall take effect and be in force from and after its passage and approval.

Approved January 21, 1901.

LIENS.

CHAPTER 118.

[S. B. 105.]

LIENS.

AN ACT to Amend Section 4680 of Article 2, Chapter 72, of the Revised Codes of the State of North Dakota, for the Year 1899, Entitled Liens in General.

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

§ 1. AMENDMENT.] That section 4680 of article 2, chapter 72, of the Revised Codes of the state of North Dakota for the year 1899, be amended so as to read as follows:

§ 4680. LIENS ON FUTURE INTEREST.] An agreement may be made to create a lien upon property not yet acquired by the party agreeing to give the lien, or not yet in existence. In such case the lien agreed for attaches from the time when the party agreeing to give it acquired an interest in the thing to the extent of such interest; provided, however, that in case of a contract or agreement for a lien upon

the future earnings of man, animal or machinery, personal notice thereof in writing shall be served upon the party for whom such services are performed before the payment of such services, which said notice may be served and returned in the same manner as a summons in a civil action, and provided further, that in case of such agreement in regard to the earnings of machinery which is operated with man and animal, such lien shall not attach to more than fifty per cent of the gross earnings of such machinery, man and animal, and provided further, that the payment hereinbefore referred to shall not be construed so as to include claims or debts held by the person for whom such services are so performed against a person owning or operating said machinery.

Approved March 5, 1901.

LIBEL.

CHAPTER 119.

[S. B. 160.]

NEWSPAPER LIBEL.

AN ACT Defining Newspaper Libel and Providing for Demanding Remedy Before Action Can be Brought.

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

§ 1. DEFINING LIBEL. NEWSPAPERS.] Before any suit for libel can be brought against a newspaper, other than a libel of, or concerning a female, the party aggrieved must, at least three days before filing his complaint, serve notice on the publisher of such newspaper at the principal office of its publication, specifying the statement alleged to be false and defamatory, and then if on the trial it appears that the article was published in good faith, and its falsity was due to a misapprehension in regard to the facts, and a full and fair retraction of the erroneous statement was published in the next issue of the paper, or in the case of a daily paper within three days after the mistake was brought to the attention of the publisher, in as conspicuous a place and type as the original article, the plaintiff will be entitled to recover only such damage as he can show he has sustained to his property, business, trade, profession or occupation.

§ 2. DEMAND REMEDY BEFORE ACTION.] But if the libel is against a candidate for office, the retraction must also be made editorially, and

in the case of a daily paper at least three days, and in the case of a weekly paper, at least ten days before the election.

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

Approved March 8, 1901.

LIMITATION OF ACTIONS.

CHAPTER 120.

[S. B. 34.]

LIMITATION OF ACTIONS.

AN ACT to Amend Section 5200 of the Revised Codes of the State of North Dakota, 1899, Being Section 5200 of the Revised Codes of 1895, in Regard to the Limitation of Actions.

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

§ 1. AMENDMENT.] That section 5200 of the Revised Codes of the state of North Dakota, 1899, being section 5200 of the Revised Codes of 1895, be and the same is hereby amended so as to read as follows:

[TEN YEARS. WITHIN TEN YEARS.]

1. An action upon a judgment or decree of any court of the United States or of any state or territory within the United States.

2. An action upon a contract contained in any conveyance of mortgage or instrument affecting the title to real property, except a covenant of warranty, an action upon which must be commenced within ten years after the final decision against the title of the covenantor.

3. Any proceeding by advertisement or otherwise for the foreclosure of a mortgage upon real estate.

§ 2. EMERGENCY.] There exists an emergency in this that there is no limitation of proceedings to foreclose mortgages upon real estate by advertisement, therefore this act shall take effect and be in force from and after its passage and approval.

Approved February 27, 1901.

LIVE STOCK.

CHAPTER 121.

[S. B. 208.]

INSPECTING AND SHIPPING LIVE STOCK.

AN ACT Concerning the Inspection of Live Stock Before Shipment, Creating the Office of Stock Inspector and Prescribing His Duties and Compensation.

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

§ 1. STOCK INSPECTOR.] Whenever the board of county commissioners in any county are petitioned so to do by at least ten per cent of the voters of their county, as evidenced by the number of votes cast for congressman at the last general election, they may appoint the sheriff of their county as live stock inspector, and when so appointed, the said sheriff shall perform the duties and receive the compensation therefor as hereinafter prescribed by this act.

§ 2. INSPECTION BEFORE SHIPPING.] It shall be the duty of said stock inspector to inspect all horses and cattle of which he has knowledge are about to be loaded for shipment, or to be driven or shipped out of the county in which he resides, to any other point within the state or to a point outside the state, before the same is shipped.

§ 3. Said inspector shall make and keep a record in his office in a book expressly for that purpose, which record shall be open to the public; and shall contain: First, the marks and brands upon each of said animals, and second, if no marks or brands appear thereon he shall take a general description of the same; third, the owner of said stock, if ascertainable, and if not, he shall so state in his record; fourth, the person in whose name said animals are shipped; fifth, the name of the person in charge of the same; and sixth, the point of destination, together with such other information as may assure the inspector that the person shipping or driving is the owner, or has lawful right to ship or drive the same. If the inspector shall be satisfied from his inspection that the person shipping or driving said animals is the owner or has lawful right to ship or drive the same, he shall, on payment of the fees hereinafter prescribed, give to such person a permit to ship or drive said live stock, which permit shall be in writing and shall set forth the number and description of the animals.

§ 4. UNLAWFUL TO SHIP WITHOUT PERMIT.] It shall be unlawful for any person or persons to cause to be shipped, or driven, any live stock from any county in this state to any other county therein, or to a point without said state, without such person or persons first notifying

the said stock inspector of the proposed shipment or driving, and requesting that an inspection of the animals to be shipped or driven be made, and until the permit shall have been issued as specified in this act, no railway or transportation company shall ship any such stock until said permit shall have been issued. But the said stock inspector may at his discretion issue a written permit to drive stock from one county to another within this state without any personal inspection or fees.

§ 5. INSPECTOR'S FEES.] The said stock inspector shall be entitled to demand and collect the following fees for inspection, viz.: Ten cents per head for horses and five cents per head for cattle, and he is hereby given a lien upon said animals for such inspection fees, and mileage at the rate of ten cents per mile for each mile actually traveled in going to and returning from the place of inspection.

§ 6. Any person who shall ship any horses or cattle from any county in this state without having first procured the inspection of said stock and received a permit authorizing said shipment, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than fifty dollars, nor more than two hundred dollars, or imprisonment in the county jail for not less than thirty days, nor more than six months, or by both such fine and imprisonment.

§ 7. EMERGENCY.] Whereas, there is now no law in this state providing for the inspection of live stock about to be shipped, and many shipments of such live stock will be made long prior to July 1, 1901, therefore an emergency exists and this act shall be in force and effect from and after its passage and approval.

Approved March 12, 1901.

CHAPTER 122.

[H. B. 198.]

HANDLING LIVE STOCK IN TRANSPORTATION.

AN ACT Fixing a Penalty for any Corporation, Association, Person or Persons, for in Any Manner Interfering With, or Hindering, Any Person in Charge of Any Live Stock Being or About to be, Transported Over Any Railway in This State, in Furnishing the Feed or Bedding in Cars or at Any Feeding Station in This State.

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

§ 1. LIVE STOCK. INTERFERING WITH PERSON IN CHARGE OF.] It is hereby made unlawful for any corporation, association, person or persons, to in any manner interfere with or hinder any person who may be in charge of live stock which is being, or about to be, transported in this state upon any railway, in feeding or furnishing feed or bedding for said stock in cars or at any feeding station in this state;

provided, that the said person or persons in charge of said stock shall feed or furnish such feed or bedding within a reasonable time.

§ 2. PENALTY.] That any corporation, association, person or persons violating any of the provisions of section 1 of this act shall be guilty of a misdemeanor.

Approved March 12, 1901.

CHAPTER 123.

[S. B. 47.]

WHEN LAWFUL FOR STOCK TO RUN AT LARGE.

AN ACT to Amend Section 1549 of the Revised Codes of 1889, Relating to Time When Lawful for Stock to Run at Large.

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

§ 1. AMENDMENT.] That section 1549 be amended to read as follows:

§ 1549. WHEN LAWFUL FOR STOCK TO RUN AT LARGE.] It shall be lawful for cattle, horses, mules, ponies, swine, goats and sheep to run at large from the first day of December until the first day of April each year, except within the corporate limits of any city or village; provided, that no stallion or vicious bull or any other animal known to be vicious, shall be allowed to run at large at any time; but nothing in this code shall be construed to repeal any special act establishing a fence law for any county in this state.

§ 2. COUNTY COMMISSIONERS SHALL VOTE ON THE ABOLISHING OF THE PROVISIONS OF THIS LAW. HOW CONDUCTED.] The board of county commissioners of any county shall, whenever they deem it advisable, vote upon the question of abolishing the provisions of this law in such county.

Such vote shall be in all respects conducted by said board of county commissioners in their regular meeting and according to the provisions of the law.

§ 3. WHEN THE PROPOSITION SHALL BE SUBMITTED TO VOTE. HOW CONDUCTED.] Whenever the county commissioners shall have voted it is unlawful for stock to run at large, then at the next general election, but at no other time, this question shall be submitted to vote of the people, and the order of the board of county commissioners for such election shall be made at least sixty days before such election is held, and notice of such election shall be given in the same manner and for the same length of time as notices of all general elections.

§ 4. LAW. WHEN ABOLISHED.] The ballots to be used at such elections shall be in the following form:

“Lawful for stock to run at large” and “against lawful for stock to run at large.”

In voting on the question, each voter must place at the right of the proposition he favors, the mark X. If a majority of the ballots cast at such election is against “lawful for stock to run at large” the provisions of this law shall be thereby abolished in such county.

§ 5. WHEN THE PROPOSITION MAY BE SUBMITTED AGAIN.] At any subsequent general election, but at no other time, after an election has once been held under the provisions hereof, the question of re-establishing the provisions of this law within any county having abolished the same, may be again submitted by the board to a vote of the qualified electors thereof, to be voted upon in the same manner as hereinbefore provided for the first election. The result of any election held under the provisions hereof shall remain in force until changed at some subsequent election held hereunder.

§ 6. EMERGENCY.] Whereas, an emergency exists in that there is no law preventing “stock to run at large,” therefore, this act shall take effect and be in force on and after its passage and approval. Provided, further, than any county wherever it is lawful for stock to run at large, none of the provisions of chapter 42 of the Code of Civil Procedure shall apply in such county.

Approved March 5, 1901.

MARKS AND BRANDS.

CHAPTER 124.

[S. B. 11.]

MARKS AND BRANDS.

AN ACT to Amend Sections 1536, 1537, 1538, 1542 and 1543 of the Revised Codes of North Dakota, Relating to the Recording of Marks and Brands, and for the Transferring of All Record of Marks and Brands Now in the Secretary of State's Office to the Commissioner of Agriculture and Labor.

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

§ 1. AMENDMENT.] That sections 1536, 1537, 1538, 1542 and 1543 of the Revised Codes be amended and re-enacted to read as follows:

§ 1536. OFFICE FOR RECORDING BRANDS.] A general office for recording marks and brands, shall be maintained at the seat of govern-

ment, and the duties thereof shall be performed by the commissioner of agriculture and labor.

§ 1537. BRANDS. HOW OBTAINED AND RECORDED.] Whenever any person desires the exclusive use of any mark or brand, he may make application therefor to the commissioner of agriculture and labor, setting forth a description of the mark or brand of which he desires the exclusive use, accompanying the same with a facsimile thereof and stating for what the same is to be used and the place or position it is to occupy, and it shall be the duty of the commissioner to record such mark or brand, with a description of the place or position such mark or brand shall occupy on the animal, consulting always the choice and convenience of the applicant therefor, so far as may be, without conflicting or interfering with any (previous) mark or brand.

§ 1538. COMMISSIONER OF AGRICULTURE AND LABOR. MUST RECORD BRANDS.] The commissioner of agriculture and labor shall keep a record of all marks and brands, showing the names and residences of the persons owning the same, together with a description and facsimile of such mark or brand, and in case of live stock the range occupied by such stock, as near as may be, which record shall be open to the inspection of any person interested, and he shall deliver to the owner of such mark or brand a certificate thereof, which certificate shall be deemed evidence of ownership, for which he shall charge and collect a fee of two dollars.

§ 1542. WHO HAVE A RIGHT TO RECORD BRANDS.] All persons who have heretofore recorded any mark or brand in any county of this state, shall have the prior right to the exclusive use of such mark or brand; provided, that where two or more of such marks or brands conflict with each other, the one first recorded shall have priority; provided, further, that all stock brands recorded in the office of the secretary of state prior to the first day of December, 1891, under the provisions of chapter 37 of the laws of 1890, shall be in no wise invalidated by any of the provisions of this article.

§ 1543. HOW TO OBTAIN EXCLUSIVE TRADE MARK.] Any person desiring to secure within this state the exclusive use of any name, mark, brand, print, designation or description for any article of manufacture or trade or for any mill, hotel property, machine shop or other business as a trade mark, shall deliver or cause to be delivered to the secretary of state a particular description or facsimile of such mark, brand, name, print, designation or description as he desires to use, and if there is not an application already filed for the same or a similar mark, brand, name, print, designation or description, he shall immediately record the same in a book to be provided and kept for that purpose, which book shall be at all times subject to public inspection and examination, and after the same shall have been recorded as herein provided, the person causing the same to be recorded shall have the exclusive right to the use thereof; provided, that nothing herein contained shall be construed to authorize the use of figures, letters or Roman numerals.

§ 2. SECRETARY OF STATE TO TURN OVER TO THE COMMISSIONER OF AGRICULTURE AND LABOR ALL RECORDS OF MARKS AND BRANDS.] After the passage and approval of this act the secretary of state shall turn over to the commissioner of agriculture and labor all records of marks and brands now in his office pertaining to domestic animals.

REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed.

EMERGENCY.] Whereas, an emergency exists in that the duties in the office of secretary of state during the session of the legislature are too numerous for him to give attention to the recording of brands, this act shall take effect from and after its passage and approval.

Approved February 11, 1901.

MORTGAGES.

CHAPTER 125.

[H. B. 44.]

DISCHARGE OF REAL ESTATE MORTGAGES.

AN ACT to Amend Section 4719 of the Revised Codes of North Dakota, 1899, Relating to the Discharge of Real Estate Mortgages.

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

§ 1. AMENDMENT.] That section 4719 of the Revised Codes of North Dakota be amended so as to read as follows:

§ 4719. REAL ESTATE MORTGAGE, HOW DISCHARGED BY CERTIFICATE.] A recorded mortgage must be discharged upon the record by the register of deeds having custody thereof on the presentation to him of a certificate of discharge, signed by the mortgagee, his executors, administrators, guardians, trustees, assigns or personal representatives, properly acknowledged or proved and certified as prescribed by the chapter on recording transfers, stating that the mortgage has been paid or otherwise satisfied and discharged, and authorizing said officer to cancel same of record, giving a brief description of the mortgage; provided, however, that any person acting as personal representative of the mortgagee, as aforesaid, must first file and have recorded a power of attorney (or similar authority) in the office where such mortgage is recorded, showing his authority to discharge mortgages in behalf and for the mortgagee and in his name and stead.

Approved March 6, 1901.

NOTARIES PUBLIC.

CHAPTER 126.

[H. B. 98.]

NOTARIES PUBLIC COMMISSIONS.

AN ACT Requiring Notaries Public to Endorse on Acknowledgments the Date of the Expiration of Their Commissions.

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

NOTARIES PUBLIC COMMISSIONS. DATE OF EXPIRATION.] Every notary public taking an acknowledgment to any instrument, shall, immediately following his signature to the jurat or certificate of acknowledgment, endorse the date of the expiration of his commission. Such endorsement may be either written, stamped or printed, but shall be substantially in the following form: My commission expires, 19....; provided, however, that any notary public so desiring may have the date of the expiration of his commission engraved on his notarial seal in the above form.

Approved March 7, 1901.

NORTH DAKOTA AGRICULTURAL COLLEGE.

CHAPTER 127.

[S. B. 91.]

IMPROVEMENTS FOR AGRICULTURAL COLLEGE, FARGO.

AN ACT to Provide for the Erection and Equipment of Necessary Additional Buildings, for a System of Sewerage and for Other Necessary Improvements for the North Dakota Agricultural College at Fargo.

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

§ 1. NORTH DAKOTA AGRICULTURAL COLLEGE. ADDITIONAL BUILDINGS AND IMPROVEMENTS.] To provide for the erection and equipment of necessary additional buildings, for a system of sewerage and for other necessary improvements for the North Dakota agricultural college at Fargo, the board of trustees of said agricultural college may issue bonds for such sum or sums of money as can actually be used in the construction and equipment of such necessary additional buildings, system of sewerage and other necessary improvements, not exceeding the sum of fifty thousand dollars; said bonds shall be in denominations of one thousand dollars each, shall bear interest at a rate not exceeding five per cent per annum, and shall be payable in twenty years from the date of issue from the interest and income fund accumulating from the sale, rental or lease of lands granted to the said North Dakota agricultural college. The interest on such bonds shall be payable annually on the first day of January each year, and shall be payable from the interest and income accumulating from the sale, rental or lease of said lands; provided, that if at any time there shall not be sufficient money to pay such interest, there is hereby appropriated out of the state treasury, out of funds not otherwise appropriated, a sum sufficient to meet such interest; provided, further, that a sufficient amount of funds accumulating in the interest and income fund from sale or rental of land or lands granted to the North Dakota agricultural college, shall be used and applied solely for the payment of interest on such bonds and for the creation of a sinking fund with which to pay such bonds on maturity.

§ 2. BONDS, HOW EXECUTED. NOTICE OF SALE.] Such bonds shall be executed under the seal of the board of trustees of the said North Dakota agricultural college, shall be attested by the president and secretary of said board of trustees and when executed the said board of

trustees shall receive sealed proposals for the purchase of the same, and shall give public notice of such sale for at least thirty days preceding such sale, in two or more newspapers in general circulation, giving date of such sale, and such bonds shall be sold to the highest bidder for cash and the proceeds thereof delivered to the treasurer of the North Dakota agricultural college, to be used exclusively in pursuance of the provisions of this act.

§ 3. **MONEYS. TO BE DEPOSITED WITH STATE TREASURER.]** All moneys that may arise or be derived from the sale, rental or lease of said lands granted to the North Dakota agricultural college shall be deposited with the state treasurer, to be used in pursuance with the provisions of this act for the benefit of the North Dakota agricultural college.

§ 4. **EMERGENCY.]** Whereas, an emergency exists in that it is necessary to begin the construction of the said additional buildings, sewerage and other necessary improvements before July 1st, therefore this act shall take effect immediately upon its passage and approval.

Approved March 11, 1901.

OIL INSPECTION.

CHAPTER 128.

[S. B. 107.]

INSPECTION OF DANGEROUS AND IMPURE OILS.

AN ACT to Prevent the Sale and Use in This State of Dangerous and Impure Oils.

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

§ 1. **APPOINTMENT OF INSPECTORS.]** The governor shall, by and with the advice and consent of the senate, appoint a suitable person, a citizen of this state who is not engaged directly or indirectly in the manufacturing, dealing or vending of illuminating oils, whose title shall be state inspector of oils, and whose term of office shall be two years, commencing on the first Tuesday in April succeeding his appointment, or until his successor shall be appointed and shall qualify.

The state inspector of oils shall appoint a suitable number of persons, residents of this state and not engaged directly or indirectly in the manufacture, dealing or vending of illuminating oils, who shall act as deputy inspectors of oils.

The said state inspector of oils and his deputies shall have the right

to enter into or upon the premises of any manufacturer, dealer, or vendor of illuminating oils at any time, and to inspect any books or papers of such manufacturer, dealer or vendor pertaining to the shipment or sale of such oils, and all barrels, casks and packages, tanks or other receptacles in which such oils are, or may be contained.

§ 2. BONDS.] The state inspector of oils and his deputies shall each before entering upon the discharge of his duties, take oath of affirmation according to the constitution of this state and the laws thereof, and shall file the same with the secretary of state.

The state inspector of oils shall execute a bond to the state of North Dakota in the penal sum of five thousand dollars (\$5,000), with such surety as shall be approved by the governor of state, conditioned for the faithful performance of the duties herein imposed, which bond shall be for the use of the state of North Dakota and of all persons aggrieved by the act or failure to act of said state inspector of oils, and the same shall be filed with the secretary of state.

Each of said deputy inspectors of oils shall, before entering upon the discharge of his duties, execute a bond to the state of North Dakota in the penal sum of not less than one thousand dollars (\$1,000), nor more than five thousand dollars (\$5,000), as the state inspector of oils shall prescribe, which bond shall be approved by the governor and shall be filed with the secretary of state; and such bond shall be conditioned for the faithful performance of the duties herein imposed, and shall be for the use of the state of North Dakota and of all persons aggrieved by the act or failure to act of the said deputy inspector of oils.

§ 3. APPARATUS.] The state inspector of oils shall immediately upon the appointment and qualification of the deputies named in section 2 of this act procure and furnish to such deputies such apparatus as may be necessary to carry out the provisions of this act.

He may also purchase from time to time such other apparatus for making experiments and tests of illuminating oils as he may deem necessary.

The funds for these purchases shall be taken from the funds now in the hands of the state oil inspector, set aside for the purchase of apparatus and such other funds as are hereinafter provided for.

§ 4. OILS TO BE INSPECTED.] All mineral or petroleum oils or any fluid or substance which is a product of petroleum, or into which petroleum or any product thereof enters as a constituent element, whether manufactured in this state or not, shall be inspected within this state by the state inspector of oils before being used or offered for sale or consumption for illuminating purposes in this state.

§ 5. BRANDS REQUIRED.] Every person, firm or corporation offering for sale to the trade, or manufacturing within this state such illuminating oils, shall stamp or brand every package, barrel or cask containing such illuminating oils with the number or name of the grade of the oil contained in such package, cask or barrel, such grade to be determined by the tests hereinafter provided.

§ 6. ESTABLISHMENT OF GRADES.] Illuminating oils, the product

of petroleum, before being knowingly used, sold, or offered for sale in this state, shall be tested as follows:

No. 1 grade shall conform to the following test:

First. The color shall be water white when viewed by transmitted light through a layer of oil four inches long.

Second. It shall not give a flash test below one hundred and twenty degrees (120) Fahrenheit, closed cup test (Elliott), and shall not have a fire test below one hundred and twenty degrees (120) Fahrenheit.

Third. It shall not contain more than a trace of any sulphur compound.

Fourth. It shall not have a gravity test of more than seventy-nine (79) degrees.

§ 7. METHODS OF INSPECTION.] It shall be the duty of the oil inspector or his deputies, to examine and test within this state the quality of all oil offered for sale by any manufacturer, vendor or dealer, or by any person or corporation in this state as follows:

First. As to flash and fire test.

Second. Gravity tests.

Third. Color test.

If upon such testing and examining such oil shall not meet the requirements as to flash and fire tests herein specified, such oil shall be marked upon the package, barrel, or cask containing the same, "Rejected for Illuminating Purposes," giving date of such examination and the official signature of the inspector or deputy. And it shall be unlawful for any person or persons, or corporation, to sell any such oil so rejected for illuminating purposes, for consumption in this state. If upon such testing and examination such oils shall meet the requirements as to flash and fire tests, as herein specified, such oils shall be marked upon the package, barrel, or cask containing the same, "Approved as to Flash and Fire Tests."

Whenever, in the opinion of the state inspector, or any of his deputies, or any retailer or consumer, there is sufficient cause to justify a more complete test of any oil or oils than that provided for in this section, the said state inspector shall cause the same to be made as follows: He shall procure a sample or samples of such oil or oils, making a note of the grades as stamped upon such barrel, cask or package and forward the same to the state university, agricultural college or school of mines. The chemist in charge of the laboratory of the institution to which such oil or oils is sent shall then make a test of such oil or oils, or cause the same to be made. The methods of testing shall be those employed at the laboratory of the state university, as described in the report of the professor of chemistry at the state university to the oil inspector, and incorporated as a part of the official report of the state oil inspector to the governor for the preceding year.

If after all such tests prescribed in section 6 herein are made, such oil or oils tested do not comply with the requirements in said section he shall fix his brand or device upon such cask, barrel or package as follows: "Below Grade."

§ 8. PENALTY FOR SALES.] If any person shall knowingly use, sell, or offer for sale to the trade for illuminating or heating purposes any such rejected oils, or any oils not stamped as approved by the state inspector of oils, or his deputy, in accordance with the provisions of this act, he shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to a penalty in the discretion of the court in any sum not exceeding three hundred dollars (\$300)

§ 9. RECORDS AND FEES.] Each and every inspector and deputy inspector who shall inspect any consignment of oils as provided in this act, shall demand and receive from the owner of such oils at the time such oil is tested the sum of forty cents for testing and marking a single barrel, thirty cents each when not exceeding five barrels in number, twenty-five cents when not exceeding ten in number, and fifteen cents per barrel when the number of barrels is greater than ten, submitted at the time for inspection.

Every such inspector and deputy inspector shall keep an accurate record of all the oils inspected, rejected, branded or certified to by him, which record shall state:

The date of each inspection;

The number of packages, barrels, casks or tanks approved;

The number rejected;

The number of gallons of oil contained in such packages, casks, barrels or tanks;

The manufacturer's brand;

The name of the person for whom inspected;

The name of the person to whom consigned, with his address;

The sum of money received for such inspection;

And such record shall be open to all persons interested.

On the first day of each and every month every deputy inspector of oils shall transmit to the state inspector of oils all moneys received during the preceding month and shall at the same time forward to the auditor of state and to the state inspector of oils, true copies of said record for the month preceding. On the 15th day of each and every month the inspector shall transmit to the state treasurer all moneys received during the preceding month and shall at the same time forward to the auditor of state true copies of said record for the months preceding.

The state inspector of oils shall, in the month of January of each year, make and deliver to the governor a report of his acts, and those of his deputies during the year preceding, together with remarks and suggestions for the benefit of the service, which report shall include a copy and summary of the reports submitted by the said deputies, as provided in this section.

The inspection fees forwarded to the state treasurer as herein provided shall constitute and be known as the oil inspection fund.

The auditor of state shall at the end of each and every month issue his warrants to the state inspector of oils, as follows:

The state inspector of oils is entitled to receive 66 per cent of all the

fees received by him and his deputy under the provisions of this act and this 66 per cent shall be in lieu of all the salaries, fees and expenses incurred under the provisions of this act while in the discharge of their official duty. The person appointed as deputy inspector of oils shall be paid by the state inspector of oils from the above amount received by him; 24 per cent thereof shall go to the general fund of the state.

The remaining ten per cent of the fees received under this act shall constitute a chemical test, experiment and apparatus fund, and the state inspector of oils is authorized to use such fund, or any part thereof, in carrying forward chemical tests and experiments directed toward securing more efficient tests or to purchase apparatus for such chemical tests or experiments, and the auditor of state shall on the requisition of the state inspector of oils issue his warrants for the same.

On the first day of January of each year all sums remaining in the oil inspection fund shall be covered into the general fund of the state treasury.

§ 10. EXPERIMENTS AUTHORIZED.] In case the state inspector of oils shall deem it necessary, he may conduct experiments looking to a more adequate test for quality or safety, or may cause the same to be done by the chemist in charge of the laboratory of any of the state educational institutions hereinbefore mentioned.

§ 11. FEES FOR CHEMISTS.] When tests are made by any chemist of any of the designated state educational institutions, either for experimental purposes or for determining the grade of oils as provided for in this act, the chemist making such tests or analysis shall be entitled to the following fees:

For distillation and gravity test, for each sample, five dollars; sulphur test, one dollar; photometer, five dollars.

§ 12. INSPECTORS MUST NOT TRAFFIC IN OILS.] It shall be unlawful for the state inspector of oils or any of his deputies to directly or indirectly while in office, traffic in any of the oils which he has been appointed to inspect. Any person violating the provisions of this section shall be subject to a penalty of not exceeding five hundred dollars (\$500) fine and be removed from office.

§ 13. PROSECUTION.] It shall be the duty of the state inspector of oils, or any of his deputies, or any person having cognizance of the violation of the provisions of this act, to forthwith make complaint to the state's attorney of the county in which the offense is alleged to have been committed against the person or persons so offending, and it is hereby made the duty of such state's attorney to represent and prosecute on behalf of the people of his county all cases of offenses arising under the provisions of this act. Any inspector or state's attorney who willfully refuses or neglects to carry out the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be removed from office.

§ 14. PENALTY.] It shall be unlawful for any person, firm or corporation, whether vendor, dealer, or manufacturer, to knowingly

use, sell or attempt to sell to any person in this state any of the illuminating oils hereinbefore mentioned, until the same shall have been inspected and approved according to the provisions of this act. It shall be unlawful for any person to falsely brand any package, barrel or cask, or falsely certify to any tank, car containing illuminating oils for the purpose of deceiving the purchaser thereof in any manner as to the contents of the same. It shall be unlawful for any person to sell or dispose of any empty barrel, cask or package that has once been used for illuminating oils and has been branded in accordance with the provisions of this act, before thoroughly cancelling, removing or effacing the inspection brand on the same. It shall be unlawful for any person, firm or corporation to adulterate with parafine or other substance for the purpose of sale, or use any of the illuminating oils specified in this act in such manner as to render them unsafe for use, nor shall any person knowingly use, sell, or offer for sale for illuminating purposes, any oil which will emit a combustible vapor at a temperature of less than one hundred and five degrees (105) Fahrenheit, according to the test herein prescribed. Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor and shall be subject to a penalty of not exceeding five hundred dollars (\$500) fine or imprisonment in the state penitentiary not exceeding one year, or both such fine and imprisonment.

§ 15. RESPONSIBILITY FOR DAMAGE.] Whoever shall knowingly use, sell, or cause to be sold unlawfully, any of the illuminating oils specified in this act, which are below one hundred and five degrees (105) Fahrenheit, as tested by the official tests herein prescribed, shall be liable to any person purchasing such oil or any person injured thereby, for any damage to person or property arising from any explosion thereof.

§ 16. EXAMINATION OF DEPUTIES' ACCOUNTS.] It shall be the duty of the state inspector of oils to at least once in each sixty (60) days, make a thorough examination of the books and other accounts of each of his deputies, to determine whether such deputies are fully complying with the law, and to make such other examinations as may be necessary to ascertain as far as practicable whether any of the provisions of this act are being violated.

When the state inspector of oils shall discover any violation of the provisions of this act he shall at once make complaint and institute prosecutions thereunder.

§ 17. REMOVALS.] It shall be the duty of the governor, whenever he shall find that the state inspector of oils is guilty of refusal or neglect to discharge any of the duties enjoined upon him by this act, to promptly remove him from office. It shall be the duty of the state inspector of oils to promptly remove from office any of his deputies who shall prove himself to be unfaithful or dishonest in the discharge of his duties.

§ 18. PORT OF ENTRY.] All illuminating oils when shipped into this state shall be inspected on entering the state, the following points

being designated as ports of entry: Fairmount, Wahpeton, Fargo, Grand Forks, Hankinson, Oakes, and Ellendale. For making inspections other than at said points, the inspector or his deputies shall be entitled, in addition to the fees prescribed, to mileage at the rate of ten (cents) per mile for each mile actually traveled, such mileage to be paid by the party for whom inspection is made.

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

Approved March 13, 1901.

PAN-AMERICAN EXPOSITION.

CHAPTER 129.

[H. B. 176.]

PAN-AMERICAN EXPOSITION.

AN ACT to Provide for the Collection, Arrangement and Display of the Products and Resources of the State of North Dakota, at the Pan-American Exposition, to be Held at the City of Buffalo, State of New York, in the Year 1901.

PAN-AMERICAN EXPOSITION EXHIBIT OF STATE.] Whereas, there is to be held at the city of Buffalo, in the state of New York, an exposition known as the Pan-American Exposition; and

Whereas, a corporation with a large amount of capital has been duly organized under the laws of the state of New York to conduct the business affairs of said exposition; and

Whereas, the congress of the United States has given its sanction to the Pan-American exposition by appropriating five hundred thousand dollars for this purpose, and declared that it is desirable to encourage the holding of the Pan-American exposition in the city of Buffalo in the year 1901, and a display of the products of the soil, mine, etc., of the western hemisphere would unquestionably be of great commercial benefit, not only to this country but to the entire hemisphere; and

Whereas, the Pan-American exposition will present the best opportunity ever known to place before the public, complete and perfect representation of the agricultural resources of the Americas; and

Whereas, agriculture, live stock and dairy interests will receive large space and special attention by the exposition authorities; and

Whereas, an unqualified opportunity is given to call the attention of home seekers and investors to our unoccupied lands and undeveloped agriculture and mineral resources.

Therefore, be it Enacted by the Legislative Assembly of the State of North Dakota

§ 1. BOARD OF COMMISSIONERS. WHO COMPOSED OF.] For the purpose of exhibiting the resources, products and advantages of the state of North Dakota, at the Pan-American exposition, a commission is hereby constituted to be designated the Pan-American Exposition Commission, which commission shall be composed of the governor of the state, who shall be ex-officio chairman thereof, the commissioner of agriculture and labor, who shall be ex-officio secretary thereof, and the lieutenant governor of this state.

§ 2. MEETINGS AND FUNCTIONS.] The members of said commission shall meet at the call of the governor at such time and place as he may designate, and may select some resident of the state as manager, and such manager shall be authorized and required to assume and exercise, subject to the supervision of said board, all such executive powers and functions as may be necessary to secure a complete and creditable exhibit of the interests of the state at said exposition, and he shall have personal charge of the solicitation, collection, transportation, arrangement and exhibition of the products and resources of the state, whether the same be the property of the state or loaned by individual citizens, associations or public institutions of the state and placed in his charge. He shall make report to the commission monthly, or whenever required so to do.

§ 3. MEMBERS. COMPENSATION OF.] The members of the commission herein provided for, shall not be entitled to any compensation from the state for their services, except their actual necessary expenses for transportation, and five dollars per day for subsistence for each day they are necessarily absent from their homes on the business of said commission. Provided, that the manager herein provided for and such assistants as may be necessary, shall receive such compensation as may be allowed by said commission.

§ 4. EXPENSES.] The expenses incurred under the provisions of this act shall be audited and paid in the same manner as provided by law for the payment of expenses of state officers.

§ 5. REPORTS.] Said commission shall make report of its proceedings and an itemized statement of its receipts and disbursements and transmit the same to the next session of the legislature.

§ 6. EMERGENCY.] Whereas, an emergency exists in that the work of the commission herein provided for must commence prior to July first next, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 9, 1901.

PASSENGER TRAINS.

CHAPTER 130.

[H. B. 83.]

PASSENGER TRAINS AT COUNTY SEATS.

AN ACT Requiring Railroad Companies to Stop all Regular Passenger Trains at County Seats.

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

§ 1. STOP AT COUNTY SEATS.] Every person, company or corporation operating a railroad within or through this state, shall cause all its regular passenger trains to stop upon their arrival at its station at each county seat through which such trains run, a sufficient length of time to receive and let off passengers with safety; provided, that this act shall not compel such persons, company, or corporation to cause its through railroad trains entering this state from any other state, or its trans-continental trains, to stop at any county seat of less than five hundred inhabitants.

§ 2. PENALTY.] Every person, company or corporation failing to comply with the provisions of the last section shall be subject to a penalty of five hundred dollars, to be recovered in a civil action in the name of the state and be paid when collected, to the state of North Dakota, to be credited to the common school fund; and it is hereby made the duty of the state's attorney of the county, upon complaint of any citizen, to commence and prosecute such action on behalf of the state.

§ 2. EMERGENCY.] Whereas, there is no provision of law requiring railroad companies to stop all regular passenger trains at county seats, this act shall take effect and be in force from and after its passage and approval.

Approved March 12, 1901.

PRINTING BRIEFS AND ABSTRACTS.

CHAPTER 131.

[S. B. 111.]

PRINTING OF BRIEFS AND ABSTRACTS.

AN ACT to Amend Section 5631 of the Revised Codes of 1899, Relating to the Printing of Briefs and Abstracts Upon Appeals to the Supreme Court.

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

§ 1. AMENDMENT.] Section 5631 of the Revised Codes of 1899, be, and the same is, hereby amended so as to read as follows:

§ 5631. WHEN PRINTING ABSTRACTS NOT REQUIRED.] Upon appeal from the judgment in an action for the recovery of money only, or of specific real or personal property, in which action the amount in controversy, exclusive of costs, does not exceed three hundred dollars, no printed abstracts or briefs shall be required of either party, but the same shall, unless printed, be typewritten, and only five copies of the same need be filed in the office of the clerk of the supreme court; provided, that if either party, in cases in which printed briefs or abstracts are not required, shall file printed abstracts or briefs, or both, he shall recover not exceeding ten dollars for printing such abstracts, and not exceeding ten dollars for printing such briefs as he may file, if he is awarded judgment for costs on appeal.

Approved March 1, 1901.

POWER OF ATTORNEY.

CHAPTER 132.

[S. B. 149.]

POWER OF ATTORNEY.

AN ACT Requiring Agents and Attorneys to Have a Power of Attorney Authorizing the Foreclosure of Real Estate Mortgages, and Requiring it to be Filed in the Office of the Register of Deeds.

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

§ 1. **MORTGAGES.** AGENTS AND ATTORNEYS TO HAVE POWER OF ATTORNEY.] That it shall be unlawful for any agent or attorney of any mortgagee, assignee, person or persons, firm, corporation, executor, administrator, trustee or guardian owning or controlling any real estate mortgage to foreclose the same until he shall receive a power of attorney from such mortgagee, assignee, person or persons, firm, corporation, executor, administrator, trustee or guardian, authorizing such foreclosure.

§ 2. **SALE OF REAL ESTATE BY AGENT OR ATTORNEY NOT VALID. WHEN.]** No sale of any real estate, upon foreclosure made by an agent or attorney, shall be valid for any purpose, unless said power of attorney shall be procured as herein provided and filed in the office of the register of deeds of the county wherein said real estate is located before the day fixed or appointed to make the same; provided, that any person, firm or corporation not owning such mortgage, but controlling the same, shall, in addition to furnishing said power of attorney, furnish said agent or attorney making such foreclosure a copy of the instrument authorizing such control, and a failure to do so shall invalidate such foreclosure.

Approved March 12, 1901.

PUBLIC BUILDINGS.

CHAPTER 133.

[S. B. 33.]

SECURING PERSONS WHO FURNISH MATERIAL OR LABOR ON PUBLIC BUILDINGS.

AN ACT to Secure From Loss Persons Who Furnish Materials or Labor in the Alteration, Repair, Erection or Betterment of Public Buildings, or Any Other Public Improvements.

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

§ 1. TO SECURE PERSONS FURNISHING MATERIALS OR LABOR ON PUBLIC BUILDINGS.] It shall be the duty of every public officer or board authorized to enter into a contract for the erection, repair, alteration or betterment of any public building or any other public improvements before entering into any such contract, to take from the contractor a good and sufficient bond for an amount at least equal to the price stated in the contract, condition to be void if the contractor and all sub-contractors shall pay all bills and claims on account of labor or materials furnished in and about the performance of said contract, including all demands of sub-contractors, said bond to stand as security for all such bills, claims and demands until the same are fully paid. The obligee in said bond shall be the state of North Dakota; but any person having any lawful claim against the contractor, or any sub-contractor, on account of labor or materials, or both, furnished in and about the performance of said contract, may institute an action to recover the same in his own name upon said bond, in the same manner and with like effect as though the said bond were made payable to him.

§ 2. PERSONALLY LIABLE FOR BILLS.] Any officer and the members of any board who shall fail to take such a bond before entering into such a contract shall be personally liable for all such bills, claims and demands which shall not be paid within thirty days after the completion of the work.

§ 3. SURETIES.] When the penal sum of said bond is \$5,000 or under, the same shall be signed by at least two sureties, each of whom shall justify in the full amount of said bond. When the penal sum of said bond is in excess of \$5,000 and not greater than \$20,000, said bond shall be signed by at least four sureties, who shall justify in the amount thereof. And when said penal sum is in excess of \$20,000 and not greater than \$50,000, said bond shall be signed by at least eight sureties, each of whom shall justify in at least one-half the

amount of said bond. But it shall be sufficient in any case if said bond is signed by a reputable surety company authorized to enter into such an obligation.

§ 4. BOND SHALL BE FILED.] Before said contract is entered into, said bond, duly signed and acknowledged, with the proper affidavits of justification attached thereto, shall be filed in the office of the clerk of the district court of the county in which such contract is to be performed, and approved by said clerk, to be kept as one of the permanent records of the office.

§ 5. That all acts or laws or parts thereof inconsistent herewith be, and the same hereby are repealed.

§ 6. EMERGENCY.] Whereas, an emergency exists in that there exists no protection for the persons protected by this statute; this act shall take effect immediately upon its passage and approval.

Approved February 27, 1901.

PUBLIC HIGHWAYS.

CHAPTER 134.

[S. B. 25.]

PUBLIC HIGHWAY.

AN ACT Granting a Right of Way for a Public Highway Across the Military Encampment Grounds at Rock Island, Ramsey County, North Dakota.

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

§ 1. RIGHT-OF-WAY ACROSS MILITARY GROUNDS.] A right of way is hereby granted for the laying out of a public highway across the military encampment grounds at Rock Island, Ramsey county, N. D., from north to south, upon a route to be determined by the proper authorities of Ramsey county, subject to the approval of the governor.

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

Approved February 26, 1901.

PUBLIC LANDS.

CHAPTER 135.

LEASING PUBLIC LANDS.

[S. B. 197.]

AN ACT to Amend Section 217 of the Revised Codes of 1899, Providing for the Leasing of Public School Lands.

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

§ 1. AMENDMENT.] That section 217 of the Revised Codes of 1899, be amended to read as follows:

§ 217. LANDS SUBJECT TO LEASE.] All the common school lands and all other public lands of the state that are not of such value as will admit of appraisal at ten dollars or more per acre, at the time of any regular appraisal, may be leased; provided, that no leases can be granted for a period longer than five years, and only for pasturage and meadow purposes, and at public auction after notice as hereinafter provided; provided, further, that all of such school and public 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; provided, further, that in case of a sale of the lands so leased during the term of the lease, the lessee to be given ninety days' notice, and provided, further, that at the expiration of said lease or within ninety days of the date of receiving the aforesaid notice, the said lessee may remove from said lands so leased, all fences, sheds, water tanks, wind mills, etc., used upon said lands by said lessee. All rents shall be paid annually in advance.

§ 2. EMERGENCY.] Whereas, there is no law to regulate cancellation of land leases in cases of sale of such land, therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 13, 1901.

CHAPTER 136.

[S. B. 228.]

SALE OF PUBLIC LANDS.

AN ACT Providing for the Sale of Public Lands During the Year 1901, and for the Disposal of the Proceeds of Such Sale and the Revenue Accruing Thereon.

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

§ 1. PUBLIC LAND. SALE OF.] The board of university and school lands shall, during the year 1901, appraise, advertise and sell public lands, or so much thereof as can be sold at or above the minimum price of ten dollars per acre, as follows:

One hundred and twenty-five thousand acres of the common school lands.

Twenty thousand acres of the agricultural college lands.

Fifteen thousand acres of the university lands.

Ten thousand acres of the normal school lands, providing that the revenue accruing from the last mentioned sale shall be divided pro rata between the normal schools at Valley City and Mayville in proportion to the lands granted to each.

Five thousand acres of the deaf and dumb asylum lands.

Five thousand acres of the reform school lands.

Five thousand acres of the industrial school lands.

Five thousand acres of the school of mines lands.

Five thousand acres of the blind asylum lands.

Five thousand acres of the soldiers' home lands, and ten thousand acres of the capitol building lands; total, two hundred and ten thousand acres.

§ 2. PROCEEDS OF SALE. HOW DISPOSED OF.] The proceeds of the sale of the common school lands shall remain a perpetual fund and the revenue accruing on the same shall be applied as now provided by law.

§ 3. PROCEEDS OF SALE OF AGRICULTURAL LANDS TO REMAIN A PERPETUAL FUND.] The proceeds of the sale of the agricultural college lands, the university lands, the normal school lands, the deaf and dumb asylum lands, the reform school lands, the industrial school lands, the blind asylum lands, and the school of mines lands, shall remain a perpetual fund, the revenue of which shall be applied towards the maintenance, or the liquidation of the indebtedness of the respective institutions. Each institution shall be credited for the proceeds of the sale of its lands and shall receive the revenues accruing thereon.

§ 4. PROCEEDS OF SALE OF SOLDIERS' HOME LANDS. HOW APPLIED.] The proceeds of the sale of the soldiers' home lands shall be applied; first, towards liquidating the bonded indebtedness of the institution, and second, the balance, with the revenue accruing thereon, shall go towards its maintenance as may be required.

§ 5. PROCEEDS OF CAPITOL BUILDING LANDS. HOW APPLIED.] The proceeds of the sale of the capitol building lands shall be applied; first, towards reimbursing this state for the fifty thousand dollars (\$50,000) bonds issued by it under chapter thirty-nine (39) of the laws of 1893, for the erection of the new wing to the capitol, and second, the balance to be retained in a capitol building fund to be disposed of as may be provided by law.

§ 6. EMERGENCY.] Whereas, an emergency exists in the fact that sales of land should take place before July 1st, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 11, 1901.

CHAPTER 137.

[H. B. 22.]

SCHOOL AND PUBLIC LANDS.

AN ACT to Amend Section 225 of the Revised Codes of 1899, so as to Enable the Lessee of Common School and Public Lands of the State, During and Within a Reasonable Time After His Term Shall Have Expired, to Remove From Such Lands Any Fencing, Buildings or Improvements He May Have Made Thereon, or Have Purchased From His Predecessor.

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

§ 1. AMENDMENT.] That section 225 of the Revised Codes of 1889 of this state be so amended as to read as follows:

§ 225. LESSEE NOT TO DESTROY TIMBER.] No lessee of any of the common school or public lands of the state or his heirs or assigns shall cut down or take away from such tract any timber, trees or wood, or suffer or cause the same to be done, by any person, except that such lessee may cut down or use such 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 said tract; and further, that such lessee, his representative or assigns may, during his term or within a reasonable time thereafter, remove any pump, curbing, fencing, or any other improvement he may have placed thereon or received from any preceding occupant or lessee of the land. Any lessee violating the provisions of this section shall forfeit his lease and all rights and interests thereunder, and shall be liable to the state for damages sustained by the state by reason thereof, and shall be guilty of a misdemeanor.

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

§ 3. EMERGENCY.] An emergency exists in this, that leasing of the common school and other public lands of this state will take place prior to the first day of July next. Therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 12, 1901.

PUBLIC FUNDS.

CHAPTER 138.

[S. B. 217.]

FUNDS OF AGRICULTURAL COLLEGE AND DEAF AND DUMB ASYLUM.

AN ACT Directing State Auditors to Pay Over Funds Belonging to Agricultural College, Deaf and Dumb Asylum, and State University, and School of Mines, to the Respective Institution Treasurers, and Providing for the Application of Such Funds.

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

§ 1. STATE AUDITORS TO PAY OVER FUNDS.] All moneys received and interest for rents, penalties, permits or from any other source than from the principal of sales of agricultural college lands, and lands belonging to the deaf and dumb asylum, state university, and school of mines, shall be paid over to the respective institution treasurers of the agricultural college, deaf and dumb asylum, and state university and school of mines, upon the warrant of the state auditor on the first day of January, April, July and October in each year.

§ 2. FUND SUBJECT TO ORDER OF.] The funds herein referred to shall be subject to the order of the respective boards of trustees of each institution herein mentioned and shall be used for the maintenance of such institutions.

§ 3. EMERGENCY.] An emergency exists in that there is no law authorizing the distribution of the funds referred to in this act, therefore this act shall be in force from and after its passage and approval.

Approved March 13, 1901.

PUBLIC PRINTING.

CHAPTER 139.

[S. B. 137.]

PUBLIC PRINTING.

AN ACT to Amend Sections 73 and 76 of the Revised Codes of 1899, Relating to Public Printing and Making an Appropriation Therefor.

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

§ 1. AMENDMENT.] Section 73 of the Revised Codes of 1899 is hereby amended to read as follows:

§ 73. REPORTS TO GOVERNOR AND LEGISLATIVE ASSEMBLY. WHEN TO BE MADE.] All officers and boards required to make reports to the governor or to the legislative assembly shall make such reports on or before the first day of September, and all such reports, whether required annually or biennially, shall be made to and include the thirtieth day of June preceding. The governor upon receiving such reports, shall deliver the same to the commissioners of public printing to be printed, and he shall lay such printed reports before the legislative assembly at its next session, together with his biennial message; provided, that the governor and the commissioners of public printing shall have the authority to revise and eliminate such matter from any report as in their judgment will not seriously detract from the usefulness of such reports, and may also restrict the number of such reports to be printed, when deemed advisable in the interest of economy, any provisions of law regulating public printing to the contrary notwithstanding.

§ 2. AMENDMENT.] Section 76 of the Revised Codes of 1899, is hereby amended to read as follows:

§ 76. PRINTING AND BINDING. ACCOUNTS FOR. HOW AUDITED AND PAID. SPECIAL APPROPRIATION.] All accounts for printing and binding required for any officer or department of the state government and authorized by law, shall be certified according to law and before payment be approved by the commissioners of public printing. It shall be the duty of the secretary of state to keep a record of all proceedings of the commissioners of public printing, and also a record of all public printing which shall be duly authorized by law, and issue requisitions for the same and see that the provisions of law governing the same are faithfully observed. He shall receive all completed work from the contractors for public printing, and deliver the same to the respective departments for which it is ordered. When vouchers for public print-

ing shall have been approved and verified according to law, it shall be the duty of the state auditor to draw his warrant on the state treasurer for such sum or sums as may be found due. To meet the deficiency now existing for public printing there is hereby appropriated from any moneys in the state treasury not otherwise appropriated, a sufficient sum to pay all lawful obligations of the state for public printing due at the time of the taking effect of this act, and for the biennial period of 1901 and 1902, there is hereby appropriated the sum of thirty thousand dollars for public printing.

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

§ 4. EMERGENCY.] Whereas, an emergency exists, in that there now exists a deficiency in the public printing appropriation, and the present laws do not concisely and clearly define the duties and powers of the commissioners of public printing, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 13, 1901.

PUBLIC WAREHOUSES.

CHAPTER 140.

[H. B. 109.]

DEFINING PUBLIC WAREHOUSES.

AN ACT to Amend Section 1786 of the Revised Codes of the State of North Dakota, Edition of 1899, Relating to and Defining Public Warehouses.

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

§ 1. AMENDMENT.] That section 1786 of the Revised Codes of the State of North Dakota, edition of 1899, be, and the same is hereby amended so as to read as follows:

§ 1786. AMENDMENT. PUBLIC WAREHOUSES DEFINED.] All buildings, elevators and warehouses, and all grist and flour mills doing a shipping business in this state, erected and operated, or which may hereafter be erected or operated by any person, association, copartnership, corporation or trust, for the purpose of buying, selling, storing, shipping or handling grain for profit, are declared public warehouses, and the person, association, copartnership or corporation owning or operating such buildings, elevators, or warehouses, which are now, or may hereafter be located or doing business within this state, whether such owners or operators reside within this state or not,

are public warehousemen within the meaning of this article, and none of the provisions of this article shall be construed so as to permit discrimination with reference to buying, receiving and handling grain of standard grades or in regard to the persons offering such grain for sale, storage and handling at such public warehouses, while the same are in operation.

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

Approved March 13, 1901.

CHAPTER 141.

[H. B. 182.]

PUBLIC WAREHOUSES.

AN ACT to License and Regulate the Business of Storage Companies and Public Warehousemen (Other Than Warehousemen of Grain in Bulk) and to Provide Penalty for Violation of the Same.

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

§ 1. LICENSE KEEPERS OF PUBLIC WAREHOUSES.] The governor may license any suitable person, persons or corporations established under the laws of this state, and having their place or places of business within this state, to carry on the business of public storage companies or public warehousemen, who may keep and maintain public warehouses for the storage of goods, wares and merchandise, etc., excepting grain in bulk.

Said license may be obtained within thirty days from and after the passage of this bill, upon the payment into the treasury of the state of the sum of ten dollars; and annually thereafter, by the payment of a like sum, to be credited to the school fund of the state.

§ 2. BONDS.] Each person or corporation licensed under the preceding section shall give a bond to the treasurer of the state in the penal sum of five thousand (\$5,000) dollars, with good and sufficient sureties to be approved by the governor, for the faithful discharge of the duties of a public warehouseman.

§ 3. SUBJECT TO ACTION IN NAME OF STATE.] When any one licensed to do business as a public storage company or as a public warehouseman fails to perform his duty, or violates any of the provisions of this chapter, any person, persons or corporations injured by such failure or violation may, with the consent of the attorney general, bring an action in the name of the state, but to his or their own use, in any court of competent jurisdiction, on the bond of such company or warehouseman.

In such action the person, persons or corporation in whose behalf

the action is brought shall file with the court a satisfactory bond for costs, and the state shall not be liable for any costs.

§ 4. INSURING PROPERTY STORED.] Every public storage company or warehouseman shall when requested thereto in writing by any party placing property with him in storage, cause such property to be insured for whom it may concern; and such storage company or warehouseman shall not be held liable for the loss or damage by fire to the owner or owners of any property stored with him, unless such request to insure is made as aforesaid and he or they fail to comply therewith; provided, that such a loss or damage is not occasioned through the negligence of himself, his agents, servants, or employes; provided, that such storage company or warehouseman may, in case they deem it necessary and proper, insure such property without such request, in writing, in which event the cost of such insurance shall be and become a valid lien and charge thereon as provided in section eight (8) of this act.

§ 5. TITLE OF GOODS STORED.] The title of goods and chattels stored with a public storage company or in a public warehouse shall pass to a purchaser, or pledgee, by the indorsement and delivery to him of the storage company's or warehouseman's negotiable receipt therefor, signed by the party to whom such receipt was originally given, or by an endorsee of such receipt, subject to all liens and charges thereon for warehousing, advanced charges and insurance.

§ 6. STORAGE CHARGES. NO DISCRIMINATION.] Every such storage company or warehouseman shall receive, forward and store all property offered for such purposes by any person, persons or corporation, impartially and at as low a rate of charge, and in a manner and on terms, and in quantities as favorable to the party offering such property as it or he at the same place receives, forwards and stores, in the ordinary course of business, property of like description and in similar quantities offered by any other person, persons, or corporation. And no such storage company or warehouseman shall discriminate against any particular person, persons or corporation, or subject them or him to any undue or unreasonable prejudice or disadvantage.

And any court having jurisdiction shall have power to enforce the provisions of this act by injunction, or other suitable process.

§ 7. PENALTY.] Every such storage company or warehouseman who neglects or refuses to comply with the provisions of the preceding section shall forfeit, for every such offense, not less than fifty nor more than five hundred dollars, to be recovered in an action by the party offering the property for storage.

§ 8. LIEN THEREON.] Every such storage company or warehouseman who stores, keeps, cares for, or advances money on, or insures personal property, shall have a lien thereon for his reasonable charges for storing, keeping, caring for, and insuring the same, and for the charges he may have advanced on the same and legal interest thereon.

§ 9. UNLAWFUL WITHOUT LICENSE.] It shall be unlawful for any person, persons, or corporation, not duly licensed as herein provided,

to conduct or carry on the business of a public storage company or public warehouseman in the state.

§ 10. GUILTY OF MISDEMEANOR. PUNISHMENT.] Any person, persons or corporation who shall violate the provisions of this act shall be deemed guilty of a misdemeanor, and shall be punishable by a fine not exceeding one thousand (\$1,000) dollars.

§ 11. TO WHOM APPLIED.] This act shall not be construed to apply to any implement transfer company, or to any railroad or transportation company; provided, such railroad or transportation company shall, within forty-eight hours after the receipt of such goods, wares, and merchandise, notify the consignee of the arrival thereof in writing, and in case such consignee, or his assigns, fails and neglects to call for or receive said goods, wares, or merchandise, within twenty days after such receipt of same by any railroad or transportation company as aforesaid, said railroad or transportation company must then turn over said goods, wares or merchandise to a storage company or warehouseman, licensed as in this act provided, upon the payment of the charges of said carriers thereon, which charges thus paid by said storage company or warehouseman to said carriers shall be a lien on said goods, wares or merchandise.

§ 12. REPEAL.] That all acts and parts of acts inconsistent herewith are hereby repealed.

§ 13. EMERGENCY.] Whereas, there is no law regulating the business of public warehousemen (other than warehousemen of grain in bulk) in this state, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 13, 1901.

PHYSICIANS AND SURGEONS.

CHAPTER 142.

[H. B. 12.]

LICENSING PHYSICIANS AND SURGEONS.

AN ACT to Amend Section 278 of the Political Code of North Dakota, Relating to Licenses of Physicians, Surgeons and Obstetricians.

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

§ 1. AMENDMENT.] That section 278 of the Political Code of the state of North Dakota be amended so as to read as follows:

§ 278. LICENSE TO BE RECORDED.] The person receiving a license shall file the same for record in the office of the register of deeds of the county wherein he resides, and the register of deeds shall record the same in like manner as other instruments required to be recorded.

Approved March 12, 1901.

REAPPORTIONMENT.

CHAPTER 143.

[S. B. 60.]

REAPPORTIONMENT.

AN ACT to Define the Senatorial and Representative Districts of North Dakota and Prescribe the Number of Senators and Representatives Therein.

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

§ 1. SENATORIAL AND REPRESENTATIVE DISTRICTS. DEFINING AND NUMBERING SAME.] Until otherwise provided by law under the terms of the constitution the senatorial and representative districts in the state of North Dakota shall be formed, and the senators and 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 three representatives.

The second district shall consist of the townships of St. Thomas, city of St. Thomas, Crystal, city of Crystal, Hamilton, town of Hamilton, Cavalier, town of Cavalier, village of Canton, Avon, Liberty, Akra, Beaulieu, Thingvalla, Gardar, Park, Elora and Lodoma, in the county of Pembina, and be entitled to one senator and three representatives.

The third district shall consist of the townships of Perth, Latona, Adams, Silvesta, Cleveland, Norton, Vesta, Tiber, Medford, Vernon, Golden, Lampton, Eden, Rushford, Kensington, Dundee, Ops, Prairie Center, Fertile, Park River, village of Edinburg, village of Conway, village of Hoople, village of Pisek, Glenwood, Kindoss, Shepard, Sauter, and the unorganized township 157, range 59, in the county of Walsh, and be entitled to one senator and three representatives.

The fourth district shall consist of the townships of Forest River, village of Forest River, Walsh Center, Grafton, city of Grafton, Farmington, Ardoch, village of Ardoch, Harriston, Oakwood, Martin, Walshville, Pulaski, Acton, Minto, village of 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, Strabane, Wheatland, Hegton, Arvilla, Avon, Northwood, city of Northwood, Lind, Grace, Larimore, city of Larimore, Elm Grove,

Agnes, Inkster, Elkmont, Oakwood, Niagara, Moraine, Logan and Loretta, in the county of Grand Forks, and be entitled to one senator and three 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 Levant, 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, Washington, and the first and second wards of the city of Reynolds, in the county of Grand Forks, and be entitled to one senator and three representatives.

The eighth district shall consist of the townships of Belmont, Buxton, Caledonia, Elm River, Eldorado, Ervin, Ewin, Hillsboro, city of Hillsboro, Kelso, Logan, Norway, and the city of Reynolds, in the county of Traill, and be entitled to one senator and two representatives.

The ninth district shall consist of the townships 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 three representatives.

The tenth district shall consist of the townships of Noble, Wiser, Harwood, Reed, Barnes, Stanley, Pleasant, Kenyon, Gardner, Berlin, Raymond, Mapleton, village of Mapleton, Warren, Norman, Bell, Harmony, Durbin, Addison, Davenport, village of Davenport, Casselton, and 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, village of Buffalo, Howes, Eldred, 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 townships of Eagle, Abercrombie, Dwight, Ibsen, Center, Mooreton, Brandenburg, Summit, Fairmount, village of Fairmount, DeVillo, LeMars, Waldo, Greenfield and the city of Wahpeton, in 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 townships of Baldwin, Dazey, Pierce, Uxbridge, Edna, Minnie Lake, Hobart, Potter, village of Sanborn, village of Wimbledon, city of Valley City, and the unorganized townships 143, range 56, township 143, range 58, township 143, range 60, township 142, range 59, township 142, range 58, town-

ship 142, range 57, township 141, range 58, township 141, range 59, township 141, range 60, township 141, range 61, township 140, range 61, township 140, range 58, in 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 three representatives.

The seventeenth district shall consist of the county of Nelson, and be entitled to one senator and two representatives.

The eighteenth district shall consist of the townships of Cypress, Linden, Dresden, Langdon, city of Langdon, South Dresden, Gray, Glenila, Huron, Moscow, Berlin, Jackson, Perry, Billings, Storlie, Weber, Trier, Gordon, Henderson, and the unorganized townships 159, range 64, and township 161, range 64, in the county of Cavalier, and be entitled to one senator and two representatives.

The nineteenth district shall consist of the county of Rolette, and be entitled to one senator and two representatives.

The twentieth district shall consist of the county of Benson, and be entitled to one senator and three representatives.

The twenty-first district shall consist of the county of Ramsey, and be entitled to one senator and three representatives.

The twenty-second district shall consist of the county of Towner, 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 three representatives.

The twenty-fourth district shall consist of the county of LaMoure, and be entitled to one senator and two representatives.

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 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 county of Bottineau, and be entitled to one senator and two representatives.

The twenty-ninth district shall consist of the counties of Ward and Williams, and be entitled to one senator and three representatives.

The thirtieth district shall consist of the county of Morton, and be entitled to one senator and three representatives.

The thirty-first district shall consist of the counties of Stark and Billings, and be entitled to one senator and three representatives.

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

The thirty-third district shall consist of the county of Wells, and be entitled to one senator and three representatives.

The thirty-fourth district shall consist of the counties of McHenry and Pierce, and be entitled to one senator and three representatives.

The thirty-fifth district shall consist of the counties of McLean, Mercer and Oliver, and be entitled to one senator and two representatives.

The thirty-sixth district shall consist of the counties of McIntosh and Logan, and be entitled to one senator and two representatives.

The thirty-seventh district shall consist of the townships of Walcott, Colfax, Barrie, Helendale, Sheyenne, Viking, Garborg, Freeman, West End, Homestead, Grafton, Antelope, Danton, Garfield, Dexter, Wyndmere, Belford, Liberty, Brightwood, village of Hankinson, Elma, Park, village of Lidgerwood, Moran and Grant, in the county of Richland, and be entitled to one senator and three representatives.

The thirty-eighth district shall consist of the townships of Weimer, Noltmier, Alta, Oriska, Spring Vale, Cuba, Svea, Skandia, Norman, Binghampton, Raritan, Thordenskjold, Oakville, Spring Creek, Lincoln, Greenland, Green, Herman, and the unorganized townships 138, range 61, township 138, range 58, township 139, range 58, township 139, range 61, in the county of Barnes, and be entitled to one senator and two representatives.

The thirty-ninth district shall consist of the townships of Bohnsack, Blanchard, Bloomfield, Garfield, Galesberg, Mayville, city of Mayville, Morgan, Norman, Roseville, city of Portland, and village of Hatton, in the county of Traill, and be entitled to one senator and two representatives.

The fortieth district shall consist of the townships of Mt. Carmel, Hope, Fremont, Olga, Loam, Harvey, Easby, Alma, East Alma, Montrose, villages of Milton and Osnabrock, in the county of Cavalier, and be entitled to one senator and two representatives.

§ 2. REPEAL.] Chapter 37 of the Revised Codes of 1899, and all acts and parts of acts in conflict with the provisions of this act, are hereby repealed.

Approved February 27, 1901.

RECORDING DEEDS.

CHAPTER 144.

[S. B. 96.]

RECORDING OF DEEDS.

AN ACT Amending Section 1278 of the Revised Codes of 1899, Relating to "Deed Not to be Recorded Without Auditor's Certificate of Taxes Paid."

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

§ 1. AMENDMENT.] That section 1278 of the Revised Codes of 1899, be amended to read as follows:

§ 1278. DEED NOT TO BE RECORDED WITHOUT AUDITOR'S CERTIFICATE OF TAXES PAID.] When any deed is presented to the county auditor for transfer he shall ascertain from the books and records in his office if there be delinquent taxes due on the lands described therein, or if it has been sold for taxes; and if there are delinquent taxes due he shall certify to the same, and when the receipt of the county treasurer shall be produced for the said delinquent taxes and for any other delinquent taxes that may be in the hands of the county treasurer for collection, the county auditor shall enter on every deed of real property so transferred over his official signature "delinquent taxes paid and transfer entered," or, if the land described has been sold for taxes, "paid by sale of the land described within;" or if it is an instrument entitled to record without regard to taxes "transfer entered," and unless such entry is made upon any deed, 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 dollars and not exceeding one thousand dollars, and he shall be liable to the grantee of any instrument so recorded for the amount of any damages sustained; provided, that sheriff's or referee's certificates of sales on execution, decrees or foreclosures of mortgages and United States patents and certified copies thereof, and deeds which it may be desirable to have recorded solely for the purpose of correcting errors in and perfecting titles and deeds which make no changes in the record title, and final decree of distribution entered in county courts, shall have indorsed thereon auditor's certificate "transfer entered," and may be recorded by the register of deeds without any such certificates from the county auditor. The county 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 cents for each certificate from the person or persons presenting the same for certification, and said auditor may retain such fee as compensation for making such certificate.

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

§ 3. EMERGENCY.] Whereas, an emergency exists whereby the section as it now reads requires a certificate that is misleading, therefore this act shall take effect and be in force on and after its passage and approval.

Approved March 5, 1901.

RECORDING INSTRUMENTS.

CHAPTER 145.

[H. B. 188.]

RECORDED INSTRUMENTS.

AN ACT to Amend Section 3597 of the Revised Codes, of the State of North Dakota, in Regard to the Record of Certain Instruments, and the Admissability in Evidence of Instruments Entitled to Record, Without Further Proof.

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

§ 1. AMENDMENT.] That section 3597 of the Revised Codes of the state of North Dakota, be, and the same is, hereby amended so as to read as follows:

§ 3597. RECORD CONSTRUCTIVE NOTICE. INSTRUMENTS ENTITLED TO RECORD. ADMISSABLE IN EVIDENCE WITHOUT FURTHER PROOF.] The recording and deposit of an instrument proved and certified according to the provisions of sections 3565, 3579, 3580, 3581 and 3582 are constructive notice of the execution of such instrument to all purchasers and incumbrancers subsequent to the recording; and all instruments entitled to record, the record thereof, or a duly certified transcript of such record, or copy of such instrument, shall be admissable in evidence in all the courts of this state, and may be read in evidence without further proof.

§ 2. EMERGENCY.] There being no provision of law whereby a United States patent is admissable in evidence without proof of execution thereof, there exists an emergency, and this act shall take effect and be in force from and after its passage and approval.

Approved March 12, 1901.

RELIGIOUS CORPORATIONS.

CHAPTER 146.

[H. B. 5.]

ORGANIZING RELIGIOUS CORPORATIONS.

AN ACT to Provide for Directors and Officers of Religious Corporations.

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

§ 1. RELIGIOUS CORPORATIONS. HOW OFFICERED.] In addition to the provisions of section 2884, Revised Codes, religious corporations may in their by-laws provide the number and qualifications of their officers and directors, and the time and mode of their election or appointment, their tenure of office, and the qualifications of voters at meetings of the members, for their election.

§ 2. The board of trustees, vestry, chapter, governing committee, or other like body, having charge of the temporal concerns and property of any religious association which has become a corporation, shall constitute the board of directors of such corporation, and shall be of such number as may be determined by the by-laws of the corporation, and may be appointed or elected, and act, at such time and in such manner as may be in conformity with, or provided by, the general laws, canons, rules, regulations, usages or disciplines of the religious organization to which the members of such corporation are attached.

§ 3. REPEAL.] All acts and parts of acts inconsistent with this act are hereby repealed.

§ 4. EMERGENCY.] There being no adequate provision for the election or appointment of directors of religious corporations in conformity to the canons, laws, rules, regulations and usages of the various religious organizations in this state, this act shall take effect and be in force from and after its passage and approval.

Approved February 7, 1901.

ROAD MACHINERY.

CHAPTER 147.

[H. B. 218.]

PURCHASE OF ROAD MACHINERY.

AN ACT Entitled an Act to Amend Section 1115b of Article 5 of Chapter 11, of the Revised Codes of 1899, Relating to the Purchase of Road Machinery.

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

§ 1. AMENDMENT.] That section 1115b of article 5 of chapter 11, of the Revised Codes of 1899, be amended to read as follows:

§ 1115b. PURCHASE ROAD MACHINE.] In any township in which the whole or any part of the highway tax is paid in labor, the township board thereof may, upon being petitioned in writing by (a) majority of the resident freeholders of the town, contract for and purchase, upon credit, or otherwise, a road machine, road grader or wheeled scrapers, or one or more of either of them for the use of the township, which implements shall be used, owned and cared for by the township. Such implements shall be paid for out of the highway tax of the township and may be paid for in not to exceed five annual installments. A copy of the note or contract issued upon such purchase shall be filed in the office of the township clerk, and it shall be the duty of such township clerk to present a statement of the sum due thereon, to the township board, at each regular meeting held thereafter for the audit of the township claims and charges, and the township board shall audit the same. Not more than one-half of the highway tax of the township shall be applied to the payment thereof in any one year. The portion of such tax so applied shall be required to be paid in money, and shall be assessed and levied upon property of the township and collected in the same manner as other township charges are assessed, levied and collected, except that the amount thereof shall be put into a separate column of the tax roll, and the township board shall cause the same so certified to by the township clerk, to be levied upon the taxable property of the township.

Approved March 8, 1901.

ROAD OVERSEERS.

CHAPTER 148.

[H. B. 11.]

ROAD OVERSEERS.

AN ACT Entitled an Act to Amend Section 1143 of Article 7 of Chapter 17 of the Revised Codes of 1899.

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

§ 1. AMENDMENT.] That section 1143 of article 7, of chapter 17, of the Revised Codes of 1899, be amended to read as follows:

§ 1143. REPORT OF ROAD OVERSEERS.] Each overseer of highways shall, on the last Tuesday in October of each year for which he is elected, or appointed, render to the clerk of the township an account in writing containing:

First. The names of all persons assessed to work on the highways in his district.

Second. The names of all persons who have actually worked on the highways, with the number of days they have worked.

Third. The names of all those who have been fined and the sums in which they have been fined.

Fourth. The names of all those who have commuted and the manner in which the moneys arising from fines and commutations has been expended by him.

Fifth. The amount of all material purchased by him, together with the bills of all those from whom the material has been purchased.

Sixth. The present condition of all road machinery entrusted to him.

Approved March 7, 1901.

REVENUE AND TAXATION.

CHAPTER 149.

[H. B. 1.]

COUNTY TREASURER AND CITY TAXES.

AN ACT to Amend Section 2496, of the Revised Codes of 1899, Relating to the Duty of County Treasurer in the Collection of City Taxes.

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

§ 1. AMENDMENT.] That section 2496, of the Revised Codes of 1899, be amended to read as follows:

§ 2496. DUTY OF COUNTY TREASURER.] The county treasurer of such county shall thereupon collect such taxes, together with the interest and penalty thereon, if any, in the same manner as the general taxes for that year, and shall pay over to the city treasurer of such city all sums so collected, as fast as collected, and shall take the city treasurer's vouchers therefore.

Approved March 7, 1901.

CHAPTER 150.

[H. B. 213.]

PRECEDENCE OF STATE AND COUNTIES OVER LIENS IN COLLECTION OF PERSONAL TAXES.

AN ACT Giving the State and Counties Precedence Over Liens in the Enforcement of the Collection of Personal Property Taxes.

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

§ 1. PRECEDENCE OF COUNTY AND STATE ENFORCING PERSONAL TAX LIENS.] The right of the state and each and every county thereof to enforce the collection of personal property taxes shall take and have precedence of any and all liens on or against personal property of a tax debtor. Provided, that any person holding a lien on personal property of any tax debtor may demand and require the property of the tax debtor not covered by a lien to be first exhausted in the payment of such taxes.

§ 2. EMERGENCY.] Whereas, the existing law of the state does not give the state and counties thereof priority over liens on personal property, an emergency exists and this act shall take effect and be in force upon its passage and approval.

Approved March 8, 1901.

CHAPTER 151.

[H. B. 124.]

TAXATION.

AN ACT to Amend Section 51, of Chapter 126, of the Session Laws of 1897, Being Section 1229 of the Political Code, Relating to the Rate of State and County Tax, Prescribing the Manner in Which Township Taxes May be Levied, Fixing the Rates of Township Road and Bridge Tax and Directing the Expenditure of Road and Poll Taxes in Certain Cases.

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

§ 1. AMENDMENT.] That section 51, of chapter 126, of the session laws of 1897, be amended so as to read as follows: Same being section 1229 of the Political Code.

§ 1229. RATE OF STATE AND COUNTY TAX. ROAD TAX. SINKING FUND.] The rate of the general state tax shall not be more than four mills on the dollar valuation; and for ordinary county revenue, including the support of the poor, not more than eight mills on the dollar; and for roads and bridges, a poll tax of one dollar and a half, or one day's work, on every male person between the ages of twenty-one and fifty years; a bridge tax not to exceed two mills on the dollar, and a road tax not to exceed five mills on the dollar, valuation, to be paid in money, or in labor at the rate of one dollar and a half per day, at the option of the person taxed, and the certificate that the person named therein has actually performed eight hours labor for each day's work so certified, shall be received by the county treasurer in discharge of said tax to the amount so certified; and a further tax of not to exceed two mills on the dollar upon all taxable property in the county for emergency purposes; for county sinking fund, such rate as may be fixed by any funding act passed by the legislative assembly, or in the absence of a provision in any such act, or in counties that shall not have funded their indebtedness, then such rate as, in the estimation of the board of county commissioners, will pay one year's interest on all the outstanding debts of the county, with ten per cent on the principal sum of such debts.

§ 2. ELECTORS MAY VOTE SUMS OF MONEY. ROAD TAX.] The electors of each township have power at the annual township meeting, to

vote to raise such sums of money for the repair and construction of roads and bridges, for the support of the poor and for all township charges and necessary expenses as they deem expedient; provided, that they may, at their annual meeting, direct such an amount of the poll or road tax of the township to be expended on the highways in an adjoining township, as they deem conducive to the interests of the township, which labor and tax shall be expended under the direction of the supervisors of the township furnishing the same; provided, further, that where more than one entire congressional township is included within an organized township, the poll and road tax raised within the limits of each of such congressional townships shall be expended within such congressional townships. Unless raised to be expended outside of such organized townships in an adjoining township; provided, that the amount of tax for road purposes shall not exceed five mills, and for bridge purposes shall not exceed two mills, and that the levy of all township taxes shall be made in the manner prescribed in section 1228 of the Revised Codes, and that the township clerk shall notify the county auditor of all such levies as provided in section 2641 of said Code; provided, further, that none of the provisions of this section shall be construed as conflicting with the provisions of article 7, of chapter 17, of the Political Code. Provided, also, that the board of county commissioners shall have the same jurisdiction in relation to roads and bridges and the same power to levy road taxes in the unorganized parts of counties as the township supervisors now have in organized townships.

§ 3. Provided, that subdivision 8 of section 2542 and sections 2640 and 2670 of the Revised Codes, be, and the same are hereby repealed, and that all acts and parts of acts conflicting with the provisions of this act be, and the same are, hereby repealed.

§ 4. EMERGENCY.] Whereas, an emergency exists, in that there is no adequate provision for the levy of sufficient county road tax and that there is an apparent conflict in the laws relating to the levy of township taxes, therefore this act shall take effect immediately after its passage and approval.

Approved March 13, 1901.

CHAPTER 152.

[S. B. 153.]

PROPERTY EXEMPT FROM TAXATION.

AN ACT to Amend and Re-enact Section 1180 of the Revised Codes, Relating to Property Exempt from Taxation.

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

§ 1. AMENDMENT.] That section 1180 of the Revised Codes be amended so as to read as follows:

§ 1180. PROPERTY EXEMPT FROM TAXATION.] All property described in this section to the extent herein limited, shall be exempt from taxation, that is to say:

1. 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, not to exceed forty acres in area, and not leased or otherwise used with a view to profit.

2. All lands used exclusively for burying grounds or cemeteries.

3. All property, whether real or personal, belonging exclusively to the state or to the United States.

4. 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.

5. All lands, houses and other buildings belonging to any county, township or town used exclusively for the accommodation or support of the poor.

6. All buildings belonging to institutions of purely public charity, including public hospitals, together with the land actually occupied by such institution, not leased or otherwise used with a view to profit; and all moneys and credits appropriated solely to sustaining, and belonging exclusively to such institutions.

7. All properties belonging to counties and to municipal corporations that are used for public purposes.

8. Personal property of each individual subject to taxation to the amount of ten dollars.

9. The personal and real property owned by charitable associations known as posts, lodges, chapters, councils, commanderies, consistories and like organizations and associations not organized for profit, grand or subordinate, and used by them for places of meeting and to conduct their business and ceremonies; provided, however, that such property is used exclusively for such charitable purposes.

§ 2. EMERGENCY.] An emergency exists in that there is no exemption from taxation of the class of property mentioned in subdivision 9, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 7, 1901.

CHAPTER 153.

[S. B. 169.]

PROVIDING FOR THE LEVYING OF A SINKING FUND TAX.

AN ACT Authorizing and Requiring the State Board of Equalization at its Annual Meeting in the Year 1901 to Levy a Sinking Fund Tax to Pay the Amount Due on Bonds Issued by the Territory of Dakota on the First Day of May, 1887, and Due and Payable the First Day of May, 1902, for the Construction of Buildings for the Hospital for the Insane at Jamestown, and Making an Appropriation of the Proceeds of Such Sinking Fund Tax.

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

§ 1. SINKING FUND TAX. PAY BONDS. TERRITORY OF DAKOTA.] At its annual meeting in the year 1901 the state board of equalization is hereby authorized and required to levy a sufficient tax, the proceeds of which will enable the state treasurer to pay, redeem and cancel bonds issued by the Territory of Dakota, on the first day of May, 1887, and due and payable the first day of May, 1902, for the construction of buildings for the hospital for the insane at Jamestown, which said tax, when collected, shall be kept by said state treasurer in a separate fund to be known as the "Asylum Bonds Sinking Fund," and used by said treasurer for no other purpose than the payment of said obligations.

§ 2. PAY OUT OF ASYLUM FUND.] For the purposes of carrying out the provisions of this act there is hereby appropriated from the moneys in said "Asylum Bonds Sinking Fund" a sufficient sum to pay said obligations heretofore mentioned.

Approved March 5, 1901.

CHAPTER 154.

[H. B. 140.]

PUBLIC SALE OF PROPERTY FOR TAXES.

AN ACT to Amend Section 76 of Chapter 126 of the Laws of 1897, Being Section 1261 of the Revised Codes of the State of North Dakota, 1899, in Regard to Revenue and Taxation, and Providing that in Bidding at Public Vendue the Purchaser Who Will Pay the Total Amount of Taxes, Penalties and Costs Charged Against Land Sold Therefor at the Lowest Rate of Interest Shall be the Best Bidder Therefor.

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

§ 1. AMENDMENT.] That section 76 of chapter 126 of the laws of 1897, being section 1261 of the Revised Codes of the state of North Dakota, 1899, be, and the same is hereby amended so as to read as follows:

§ 1261. AUDITOR TO SELL AT PUBLIC VENDUE.] Said sale shall be made at public auction, at the office of the county auditor or usual place of holding court in the same building, and shall commence at the hour of ten in the forenoon, but may be adjourned from day to day for a period of ten days, whenever it is necessary for the disposal of the lands advertised. The lands and lots shall be offered for sale by the county auditor or his deputy in the order in which they appear in the advertised list, and each tract or lot shall be offered separately and struck off to the bidder who will pay the total amount of taxes, penalties and costs charged against it, including any personal taxes specified in the list and in the advertisement, which are a lien upon it, and who will agree to accept the lowest rate of interest from the date of sale on the amount of such taxes, penalties and costs so paid by him, which said rate shall in no case exceed twenty-four per cent per annum.

But if the sum bid for the same is not paid before the sale closes such tract or lot shall again be offered for sale in like manner.

The county treasurer shall attend the sale and receive all moneys paid thereon and when any tract of land or lot remains unsold for want of bidders, the same shall again be offered before the sale closes, and if there is no other bidder he shall bid for the same in the name of the county, and the same shall be struck off and become forfeited to the county. Such tract or lot shall be assessed and taxed like others until the period of redemption expires, but shall not be again offered for sale for such subsequent taxes unless the county has made an assignment of the certificate of sale, and if not so assigned such forfeiture shall become absolute at the expiration of such period for redemption.

Approved March 15, 1901.

CHAPTER 155.

[S. B. 215.]

PAYMENT OF TAX BY NON-RESIDENT OWNERS OF STOCK.

AN ACT Requiring the Payment of Taxes by Non-Resident Owners of Live Stock from Other States, Herding and Feeding on the Ranges of the State of North Dakota, and Providing for Collection of Such Taxes.

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

§ 1. NON-RESIDENT OWNERS OF LIVE STOCK PAY 50 CENTS PER HEAD. That any owner of live stock non-resident of this state, who shall enter any county in the state of North Dakota with horses, mules, cattle or sheep for the purpose of herding or feeding them upon the range of said state, or who shall permit or suffer any stock owned by him to enter any county of the state of North Dakota and feed upon the range thereof, shall pay into the county treasury of the county thus entered the sum of fifty cents per month for each head of stock so entering and feeding on such range, for each and every month said stock so feed, which tax shall be in addition to other taxes now or hereafter imposed by law.

§ 2. PAY IN ADVANCE.] Said amount of fifty cents per head per month as hereinbefore provided shall be paid monthly in advance.

§ 3. COLLECT SAME BY SEIZURE.] Should the owner of such stock fail to comply with the provisions of sections 1 and 2 of this act within ten days after the time, as hereinbefore provided, said tax shall become due, the county treasurer of the county so entered by such stock shall immediately proceed to collect said tax by seizure and sale in the same manner as delinquent personal property taxes are collected by law.

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

Approved March 13, 1901.

CHAPTER 156.

[S. B. 148.]

MAINTENANCE OF STATE SCHOOLS.

AN ACT to Provide for the Maintenance of the State University and School of Mines at Grand Forks, the Agricultural College at Fargo, the State Normal School at Valley City, the State Normal School at Mayville, the Deaf and Dumb Asylum of Devils Lake, and the School of Forestry at Bottineau, as a Part of the System of Public Schools.

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

§ 1. STATE SCHOOLS. TO PROVIDE FOR MAINTENANCE OF.] For the purpose of providing for the maintenance of the state university and school of mines at Grand Forks, the agricultural college at Fargo, the state normal school at Valley City, the state normal school at Mayville and the deaf and dumb asylum at Devils Lake, and the school of forestry, as a part of the public school system of this state, there is hereby levied upon all taxable property in the state, real and personal, an annual tax of one mill on each dollar of the assessed valuation of such property in each and every year hereafter.

§ 2. COUNTY AUDITOR SHALL CALCULATE AMOUNT OF LEVY.] The county auditor of each county shall, at the time of making the annual tax list in his county, calculate the amount of the levy hereinbefore provided for upon each and every item of property assessed in his county, as it appears upon the last assessment roll, and extend the same upon such tax list in a column to be provided for that purpose, and such tax shall thereupon be collected and paid over to the state treasurer the same as other state taxes.

§ 3. TAXES. HOW APPORTIONED.] Such taxes so levied shall be apportioned by the state treasurer to the several institutions herein mentioned as follows: Forty-hundredths of a mill to the state university and school of mines at Grand Forks; twenty-hundredths of a mill to the agricultural college at Fargo; twelve-hundredths of a mill to the state normal school at Valley City; twelve-hundredths of a mill to the state normal school at Mayville; thirteen-hundredths of a mill to the deaf and dumb asylum at Devils Lake; three-hundredths of a mill to the school of forestry at Bottineau.

§ 4. MONEYS. HOW APPROPRIATED.] The moneys arising from the taxes hereinbefore levied are hereby appropriated for the maintenance of the state university and school of mines at Grand Forks, the agricultural college at Fargo, the state normal school at Valley City, the state normal school at Mayville, the deaf and dumb asylum at Devils Lake, and the school of forestry at Bottineau, the same to be paid monthly to the board of trustees of the several institutions herein mentioned, and in proportion as herein provided, upon vouchers of

said board, signed by their respective presidents, and to be expended by the several boards, in their discretion, in the establishment and maintenance of said institutions hereinbefore mentioned.

§ 5. REPEAL.] All acts and parts of acts inconsistent with this act are hereby repealed.

Approved March 6, 1901.

CHAPTER 157.

[S. B. 152.]

LEGALIZING LEVYING OF ROAD TAXES.

AN ACT Legalizing the Levy of Taxes for Road and General Purposes by the Township Board of Supervisors for the Years 1899 and 1900.

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

§ 1. TAXES. LEVY OF FOR ROAD AND GENERAL PURPOSES.] That the levy of taxes as made by the various township boards of supervisors in this state for road and general purposes, for the years 1899 and 1900 where said levy did not exceed eight mills and where said levy was not authorized at the regular township meetings, is hereby legalized and made valid in all respects and for all purposes, the same as if it had been authorized in conformity to the laws then in force.

§ 2. EMERGENCY.] Whereas, an emergency exists in this that in many instances levies made in said years for road and general purposes were not authorized at township meetings, therefore this act shall take effect immediately upon its passage and approval.

Approved March 12, 1901.

CHAPTER 158.

[S. B. 161.]

LEGALIZING ASSESSMENT AND LEVY OF TAXES.

AN ACT to Legalize the Assessment and Levy of Taxes in Territory Over Which Counties Have Exercised Criminal and Civil Jurisdiction for Four Years Last Past, and Providing for the Collection of the Same.

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

§ 1. ASSESSMENT OF TAXES.] That all assessments and tax levies for state and county purposes heretofore made within any territory within the state of North Dakota, over which any county has exercised

jurisdiction in criminal and civil matters, and which has to all intents and purposes been treated as a portion of said county for not less than four years last past, shall be and the same is hereby in all respects legalized.

§ 2. HOW COLLECTED.] It shall be the duty of the treasurer of the county exercising such jurisdiction as is mentioned in section 1 of this act, to make out a list of such taxes in the same order as it appears in the tax list, and deliver said list of unpaid delinquent personal taxes to the sheriff of his county, whose duty it shall be to collect such delinquent personal taxes by distraining sufficient goods and chattels belonging to the persons charged with such taxes, together with penalty and interest and all accruing costs and interest, and shall immediately proceed to advertise the same in three public places in said county and in the official newspapers, if there be any in said county, for a period of ten days before such sale, stating the time and place where such property shall be sold, which place of sale shall be at the county seat of said county, and no personal property shall be exempt from such distraint and sale; and if on the date of sale such taxes remain unpaid, then the sheriff shall sell said property, or so much thereof as may be necessary to pay such taxes, together with the interest and penalty and accruing costs, at public auction.

§ 3. EMERGENCY CLAUSE.] Whereas, an emergency exists in this, that a large amount of taxes remain unpaid and uncollected in said territory, and it is necessary that the proper officers should collect such taxes in said territory long before July 1, 1901, therefore, this act shall be in force from and after its passage and approval.

Approved March 13, 1901.

CHAPTER 159.

[H. B. 92.]

LEGALIZING TAX LEVY.

AN ACT Entitled "An Act Legalizing the Levy of Taxes as Made by the State, the Various Counties, Townships and School Districts for the Years 1895 to 1900 Inclusive."

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

§ 1. TAX LEVY LEGALIZED.] That the levy of taxes for the state of North Dakota, as made by the state board of equalization, and all levies made in the various counties, townships and school districts in said state for the years 1895, 1896, 1897, 1898, 1899 and 1900, whether the same was levied in mills or in specific amounts, or both, is hereby legalized and made valid in all respects and purposes the same as if made in conformity to the laws then in force.

§ 2. EMERGENCY.] Whereas, an emergency exists that in many instances taxes levied in said years have not been paid on the grounds that the same were illegally levied, therefore this act shall take effect immediately upon its passage and approval.

Approved February 14, 1901.

CHAPTER 160.

[H. B. 3.]

EXEMPTION OF PROPERTY FROM TAXATION.

AN ACT Entitled an Act to Provide for the Exemption of Property Used Exclusively for Religious Purposes From Taxation.

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

§ 1. PROPERTY EXEMPT FROM TAXATION.] Property used exclusively for religious purposes is exempt from taxation as hereinafter provided.

§ 2. WHAT PROPERTY EXEMPT.] All real property, not exceeding one acre in extent, owned by any religious corporation or organization, upon which there is a building used for the religious services of such organization, or upon which there is a dwelling and usual outbuildings, intended and ordinarily used for the residence of the bishop, priest, rector or other minister in charge of such services, shall be deemed to be property used exclusively for religious services, and exempt from taxation, whether such real property consists of one tract or more.

§ 3. TAXES VOID.] All taxes heretofore assessed or levied on any such real property, while the same was so used for religious purposes, are void and of no effect, and must be cancelled.

§ 4. ALL PERSONAL PROPERTY.] All personal property of any religious corporation or organization used for religious purposes is exempt from taxation.

§ 5. REPEAL.] All acts and parts of acts inconsistent with this act are hereby repealed.

§ 6. EMERGENCY.] Whereas, doubt exists as to what property used for religious purposes is exempt from taxation, this act shall take effect and be in force from and after its passage and approval.

Approved February 20, 1901.

CHAPTER 161.

[H. B. 114.]

ENFORCING PAYMENT OF REAL PROPERTY TAXES.

AN ACT to Enforce Payment of Taxes on Real Property in Those Counties Wherein Proceedings Under Chapter 67, General Laws of 1897, Were Not Instituted or Where Such Proceedings Were Defective, and Upon Which Property Taxes for the Year 1896 and Prior Years are Unpaid.

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

§ 1. TAXES. PROPERTY, TO COLLECT IN COUNTIES WHERE PROCEEDINGS WERE NOT INSTITUTED OR DEFECTIVE, AND UPON WHICH TAXES FOR 1896 AND PRIOR YEARS ARE UNPAID.] In all counties in this state, wherein proceedings under chapter 67 of the general laws passed at the fifth session of the legislative assembly of this state have not been instituted, or wherein by reason of any mistake on the part of the officers charged with the said proceedings the same have been declared void, such county and its officers may and they are hereby directed to proceed as hereinafter provided.

§ 2. COUNTY AUDITOR TO MAKE LIST.] The county auditor of each county affected by the provisions of this act shall make a list of all real estate in his county against which there appears from the records of his office or the office of the county treasurer to be any taxes charged for the year 1896 or any prior year or years, which taxes have not been satisfied by payment, or redemption, or sale of the land to actual purchasers. Such list shall include all such pieces or parcels which may at any tax sale have been struck off or declared to have become forfeited to the state or county whether such sale or forfeitures was valid or invalid. The list shall contain a description of each piece or parcel of land upon which said taxes shall not have been paid as aforesaid, the name of the person in whose name the piece or parcel was last assessed at the time of filing the list, or if assessed to unknown owners so state; and the amount of such tax for each year with accrued penalty and interest. If any piece or parcel aforesaid shall have been sold to the county at the sale for the taxes of 1895 or 1896, the list shall also include each year's taxes for the years subsequent to 1896, with penalty and interest added, down to, but exclusive, of the year in which the list is filed. The county auditor shall attach to said list his affidavit to the effect that the same is a correct list of the real property in his county upon which taxes became due in the year 1896 and prior years, and have not been paid or redeemed. He shall immediately after the passage and approval of this act, file such list in the office of the clerk of the district court in his county, or in the county to which his county is attached for judicial purposes. The filing of such list shall have the force and effect of the filing of a complaint in an action by the county

against each piece or parcel of land in such list described to enforce against it the taxes therein appearing against it, and the penalties and interest for the several years for which such taxes shall remain unpaid; and also the effect of notice of pendency of such action to all parties interested in such lands or who may become interested therein subsequent to the filing of such list.

§ 3. CLERK TO MAKE COPY OF LIST AND ATTACH NOTICE.] When the list required by section 1 of this act shall have been filed, the clerk shall forthwith make a copy thereof, and attach thereto a notice which may be in the following form:

State of North Dakota, } District Court,
County of } SS.Judicial District.

The State of North Dakota: To all persons, companies or corporations who have or claim any estate, right, title or interest in, or claim to, or lien upon, any of the several pieces or parcels of land in the list hereto attached described.

The list of real estate upon which, from the records and papers in the office of the county treasurer and auditor of the county of taxes were due and unpaid in the year 1896, and all prior years, and have not been in any manner paid into the treasury of said county, having been filed as required by law in the office of the clerk of the district court in the county....., of which the list hereto attached is a copy. Therefore you and each of you are hereby required to file in the office of the clerk of said court, within thirty days after the last publication of this notice, your answer in writing, setting forth any objection or defense you may have to the taxes or any part thereof, or the penalties or interest thereon, upon any piece or parcel of land described in such list in, to or on which you have or claim any estate, right, title, interest, claim or lien; and in default thereof judgment will be entered against such piece or parcel of land for taxes in said list appearing against it and for all penalties, interest and costs. (Signed)

Clerk of the District Court in the County of.....

(Copy of List.)

§ 4. COUNTY AUDITOR SHALL PUBLISH NOTICE AND LIST.] The county auditor shall cause the said notice and list to be forthwith published, once in each three consecutive weeks, in some newspaper of general circulation, printed in the English language, published in the county in which such real estate is situated, if there be one; if there be none, then in some such newspaper published in the county where the proceedings are instituted, or if there be no such newspaper published in either county, then in some newspaper published within the judicial district. The newspaper in which such publication shall be made shall be designated by a resolution of the board of county com-

missioners of the county in which the taxes are laid, at least ten days before the publication of such list; a copy of which resolution, certified by the county auditor, shall be filed in the office of the clerk of the district court. The owner, publisher, manager or foreman in the printing office of the newspaper in which such notice and list shall be published, shall make and file with the clerk of the district court an affidavit of such publication, stating the day in which each publication was made, and shall also file with the clerk three copies of each number of the paper, in which the notice and list shall have appeared.

§ 5. WHO MAY FILE ANSWER. WHEN.] Any person, company or corporation having any estate, right, title or interest in, or lien upon any piece or parcel of land embraced in such list as published, may, within thirty days after the last publication of such notice, file in the office of the clerk of the district court an answer, verified as pleadings in civil actions, setting forth his defense or objections to the tax, or penalty, against such piece or parcel of land, which answer need not be in any particular form, but shall clearly refer to the piece or parcel of land intended, and shall set forth in ordinary and concise language the facts constituting the defense or objections to such taxes or penalties; and if the list shall embrace the taxes for two or more years, the defense or objection may be to the taxes or penalty for one or more of such years.

§ 6. CLERK SHALL ENTER JUDGMENT WHEN. FORM OF.] Upon the expiration of thirty days from the last publication of such notice and list, the said clerk shall, the affidavit of publication being filed, enter judgment against each and every of such pieces or parcels as to which no answer shall have been filed for the amount of taxes, interest and penalty appearing from the list to be due thereon and the cost of the proceeding, which judgment shall include all of such pieces or parcels and shall be substantially in the following form:

State of North Dakota,	}	In District Court,
County of.....	}Judicial District.
	} ss.	

In the matter of the proceedings to enforce payment of the taxes on real estate remaining delinquent in and prior to the year 1896, for the county of....., state of North Dakota.

A list of real property upon which taxes were due and unpaid in and prior to the year 1896 for said county of....., having been duly filed in the office of the clerk of this court, and the notice and list required by law having been duly published, as required by law, and no answer having been filed by any person, company or corporation, to the taxes upon any pieces or parcels of land hereinafter described, and more than thirty days having elapsed since the publication of such notice and list, it is hereby adjudged and decreed that each piece or parcel of land hereinafter described is liable to taxes, interest, penalties and costs to the amount set opposite the same, as follows, to-wit:

(Here insert correct description of each piece or parcel and the aggregate amount due thereon.)

And the amount of taxes, interest, penalties and costs to which, as hereinbefore stated, each or such pieces or parcels of land is liable, is hereby declared a lien upon such piece or parcel of land, as against the estate, right, title, interest, claim or lien of whatever nature in law or in equity of every person, company or corporation whatsoever. And it is adjudged that unless the amount to which each of such pieces or parcels is liable, be paid, each of such pieces or parcels be sold as provided by law, to satisfy such amount to which it is liable.

.....
Clerk of District Court,
County of.....

Such judgment shall be entered by the clerk in a book to be kept by him to be called the "Real Estate Tax Judgment Book," and shall be dated and signed by the clerk. The judgment shall be written out on the left hand pages of said book, leaving the right hand pages blank for the entries hereinafter provided; provided, however, that if any person shall desire to pay the taxes charged against any piece or parcel in said list before judgment is entered, he shall procure from the clerk a statement, showing the amount so charged for the several years against such tract in said list, including accrued cost, and upon payment of the original taxes so charged, with interest thereon, from the time each of the same became delinquent, and accrued costs to the county treasurer, the treasurer shall issue his receipt to such person, showing said taxes to be paid in full, and shall file a duplicate of such receipt in the clerk's office, the filing of which duplicate shall be equivalent to a dismissal of the proceedings as to the tract from which the taxes have been paid, and such tract shall be omitted from the judgment entered by the clerk.

§ 7. TRIAL. WHEN HELD. COUNTY COMMISSIONERS MAY EMPLOY ATTORNEY.] If answer shall be filed within the time hereinafter provided, as to the taxes and penalties upon any piece or parcel of land embraced in said list as published, the issue raised by the answer shall stand for trial at any general or special term appointed to be held in said county. The county commissioners of the county in which such taxes are laid may employ any other attorney to assist the state's attorney therein. At the term at which such proceedings come on for trial, they shall take precedence of all other business before the court. The court shall proceed without delay without a jury, and summarily hear and determine the objections or defenses made by the several answers, and shall dispose of all of such answers and direct judgment accordingly at said term; and in the trial thereof shall disregard all technicalities and matters of form not affecting the substantial merits, and any person making answer as herein provided, shall be entitled to a separate trial upon the issues raised by his answer.

§ 8. TAXES AND PENALTIES. JUDGMENT SHALL BE RENDERED, IF SUSTAINED.] If after a hearing the court shall sustain the taxes and

penalties, in whole or in part, against any piece or parcel of land, judgment shall be rendered against all such pieces or parcels for the amount which the court decides is chargeable against the same, which judgment may be substantially in the form prescribed in section 6 of this act, except that it shall, in addition, state that the same was rendered after answer and trial, and after the description of each piece or parcel shall be stated, the name of the person, company or corporation answering as to said piece or parcel. If the court sustain the defense or objection to the taxes and penalties as to any piece or parcel of land, the judgment shall, after the statement of the lands against which judgment is given, state that all other pieces or parcels not embraced in that or the prior judgment of the court, and which are described in the list as published, are discharged from the taxes in said list set down against such other pieces or parcels, and from all penalties, and the court may, in its discretion, award disbursements against the county laying such taxes, and in favor of the party answering, as to the pieces or parcels so discharged.

§ 9. OMISSIONS BY OFFICER OR OFFICERS NOT A DEFENSE.] If all the provisions of the law in force at the time of such assessment and levy in relation to the assessment and levy of the taxes, shall have been complied with, of which the list so filed with the clerk shall be prima facie evidence, then judgment shall be rendered for such taxes and the interest, penalties and cost. But no omission of any of the things provided by law in relation to such assessment and levy, or anything required by an officer or officers to be done prior to the filing of the list with the clerk shall be a defense or objection to the taxes appearing on any piece or parcel of land, unless it be also made to appear to the court that such omission resulted to the prejudice of the party objecting, or that the taxes against such piece or parcel of land have been unfairly or unequally assessed; and in such cases, but in no other, the court may reduce the amount of taxes upon such piece or parcel, and give judgment accordingly. It shall always be a defense in such proceedings, when made to appear by answer and proof, that the taxes have been paid, or that the property is lawfully exempt from taxation.

§ 10. JUDGMENT SHALL BE FINAL, EXCEPT WHEN.] The judgment which the court shall render shall be final, except that upon application of the county or other party against whom the court shall have decided the point raised by any defense or objection, the court may, if in its opinion the point is of great public importance or likely to arise frequently, make a brief statement of the facts established, bearing on the point and of its decision, and forthwith transmit the same to the clerk of the supreme court, who shall enter the same as a cause pending in such court, and place the same on the term calendar of such court for the term then in session, or for the first term thereafter. And the same shall be entitled to a preference over any other business before such court and shall be decided by such court at the term for which it shall be entered on the calendar. As soon as it shall be decided, the

clerk of the supreme court shall enter the proper order and forthwith transmit a certified copy of such order to the clerk of the proper district court; provided, that such proceedings shall in no case prevent the entry of judgment in the district court, nor prevent the sale of any piece or parcel of land pursuant to the judgment of the district court, unless at the time of applying for such statement an undertaking with at least two sureties and in an amount to be approved by the judge of the district court, conditioned for the payment of the amount for which judgment shall have been rendered in the district court, and the interest and costs allowed by law, if the decision of the court shall be affirmed, shall be filed with the clerk of the district court.

§ 11. JUDGMENT. CLERK OF DISTRICT COURT SHALL DELIVER TO SHERIFF CERTIFIED TRANSCRIPT.] When the tax judgment pursuant to this act shall be entered against those tracts as to which no answer has been filed, the clerk of the district court shall forthwith deliver to the sheriff of the county a certified transcript of such judgment, written on the left hand pages of a book to be provided by the county, and the sheriff upon receipt of such transcript shall proceed as hereinafter provided.

§ 12. JUDGMENT MAY BE PAID TO SHERIFF BEFORE SALE.] If before sale, any person wishes to pay the amount adjudged against any piece or parcel of land, such person may pay the same to the sheriff, with interest and accrued costs, if any; and the sheriff shall thereupon give a receipt for such payment and pay the amount collected, after deducting his fees, to the county treasurer.

§ 13. PROPERTY. SHERIFF SALE, WHEN.] After thirty days from the date of any tax judgment, if the amount therein charged shall not have been paid, the sheriff shall sell the pieces or parcels of land upon which the taxes stand charged in such judgment; before making such sale he shall give notice thereof by posting such notice, one copy in the office of the clerk where the judgment shall have been entered, one copy in the office of the treasurer, and one copy at the county seat of the county, in some conspicuous place, at least ten days before the day of sale; and by publishing such notice, once in each of three successive weeks, the last publication to be not less than ten days before the day of sale, in some newspaper printed in the English language and of general circulation, published in the county where such lands are situated, to be designated by resolution of the board of county commissioners, if there be one; if there be none, then in some such newspaper published in the county where the proceedings are instituted, or if there be no such newspapers in either county, then in some newspaper published within the judicial district, which notice may be substantially in the following form:

“TAX JUDGMENT SALE.”

Pursuant to a real estate tax judgment of the district court in the county of....., entered on the.....day of..... in proceedings for enforcing payment of taxes upon

real estate for the county of....., due in and prior to the year 1896, and of the statute in such cases made and provided, I shall on the.....day of....., at 10 o'clock in the forenoon, at....., in the town of....., and county of....., sell the lands which are charged with taxes in said judgment, and on which such taxes shall not have been previously paid.

(Signed)
Sheriff of.....County

At the time and place appointed in such notice, the sheriff shall commence the sale of such lands, and proceed with the sale thereof from day to day (Sundays and legal holidays excepted), until the whole shall be sold.

§ 14. PROPERTY. SHERIFF TO SELL. HOW.] The sheriff shall sell by public vendue each piece or parcel of land separately in the order in which they are described in the judgment, 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. In offering the lands for sale, he shall state the amount for which each piece or parcel is to be sold, he 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 the county treasurer shall bid in the same for the county at such an amount. The treasurer shall attend at the sale and receive all moneys paid thereon.

§ 15. SHERIFF SHALL EXECUTE CERTIFICATE. FORM OF.] The sheriff shall execute to the purchaser of any piece or parcel a certificate, which may be substantially in the following form:

I,, sheriff of the county of.....do hereby certify, that at the sale of lands pursuant to the real estate tax judgment entered in the district court in the county of....., on the.....day of....., in proceedings to enforce the payment of taxes due upon real estate for the county of....., which sale was held at....., in said county of....., on the.....day of....., the following described piece or parcel of land, situate in said county of....., state of North Dakota, to-wit: (Insert description) I did sell the fee of said piece or parcel of land to....., for the sum of....., that being the highest sum bid therefor; and he having paid said sum, I do, therefore, in consideration thereof, and pursuant to the statute in such cases made and provided, convey the said piece or parcel of land in fee simple to the said....., his heirs and assigns, forever, subject to redemption as provided by law.

Witness my hand this.....day of.....

.....
Sheriff of.....County.

If there be no bidder, then insert after the asterisk (*) as follows:
 I offered the fee of the same to the highest bidder, and no one bidding upon such offer an amount equal to that for which said piece or parcel was subject to be sold, the county treasurer of county bid in the same for the county at such amount, being the sum of.....

In consideration whereof and pursuant to the statutes in such cases made and provided, I do hereby convey said piece or parcel of land, in fee simple, to the county of.....and it assigns forever, subject to redemption as provided by law.

Witness my hand this.....day of.....

(Signed)
 Sheriff of.....County.

Such certificate, in case the land shall not be redeemed, shall pass to the purchaser, or county, the estate therein expressed, without any other act or deed whatever, subject, however, to taxes levied for the year in which the list is filed. Such certificate may be recorded as other deeds of real estate. If any purchaser shall at such sale purchase more than one piece or parcel, or if more than one shall be bid in for the county, all of the pieces or parcels so purchased or bid in for the county, may be included in the same certificate; but in all cases the certificate must state the amount at which each piece or parcel was sold or was bid in for the county.

§ 16. REDEMPTION. EXPIRATION OF. OWNER OF CERTIFICATE TO GIVE NOTICE OF.] At any time after ninety days preceding the expiration of two years from the day of sale, the owner of such certificate of sale except the county, shall give notice of the expiration of the time for redemption, as follows: He shall deliver to the sheriff for service a notice in writing containing a description of the land sold, the date of sale, the amount sold for, the amount of any subsequent taxes thereon paid by such purchaser, with date of payment, and further stating that the time for redemption from said sale will expire ninety days from the day of such service; which notice shall be served by the sheriff upon the occupant of the land therein described in the same manner as a summons in a civil action; and after service the sheriff shall return said notice with his certificate of service to the county auditor, by whom it shall be filed. If the land is unoccupied, of which fact the certificate of the sheriff endorsed upon a notice of expiration of redemption, that after examination of the premises he found them unoccupied, shall be prima facie evidence, which certificate shall be filed with the county auditor, the sheriff shall post a copy of said notice in a conspicuous place on said premises, and certify to such posting in his return in the notice filed with the auditor. The time for redemption from any such sale shall not expire until the lapse of ninety days from the date of such service or posting. After the period of redemption has expired and no redemption made, the county auditor shall issue to the holder of such certificate of sale a certificate to the effect that the right to redeem has expired, which auditor's certificate of no redemption may be recorded

in the register of deeds' office as an instrument affecting real property. Such certificate shall be prima facie evidence of the expiration of the right to redeem, and after the lapse of two years from its date shall be conclusive evidence of the service of notice and failure to redeem.

§ 17. CERTIFICATE OF SALE SHALL BE PRIMA FACIE EVIDENCE OF.] The certificate of sale shall in all cases be prima facie evidence that all the requirements of law with respect to the sale have been duly complied with. And no sale shall be set aside or held invalid unless the party objecting to the same shall prove, either that the court rendering the judgment pursuant to which the sale was made, had not jurisdiction to render the judgment; or that after the judgment, and before the sale, such judgment had been satisfied; and such certificate shall be conclusive evidence that due notice of sale, as required by this act, was given, and that the piece or parcel of land was duly offered for sale and sold, and the validity of any sale shall not be called in question, unless the action in which the validity of the sale shall be called in question shall be brought, or the defense alleging its invalidity be interposed, within three years from the date of the sale.

§ 18. DUTIES OF SHERIFF IN CONNECTION WITH SALE.] The sheriff shall immediately after such sale set out in his transcript of judgment book, opposite the description of each piece or parcel of land, to whom and for what amount the same was sold, and shall deliver the book to the county auditor, who shall keep the same as one of the records of his office; and the sheriff shall also as soon as possible after the sale, make a report of his proceedings on such sale, showing the completion of the same and accompanied by a copy of the notice of sale as published, and an affidavit of the owner, publisher, manager or foreman in the printing office of the newspaper in which such notice was published showing the dates on which the same was published. The clerk shall then mark said judgments satisfied on his records.

§ 19. TAXES FOR SUBSEQUENT YEARS SHALL BE LEVIED. HOW.] The taxes for subsequent years shall be levied on lands so sold or bid in for the county in the same manner as though the sale had not been made, but such lands shall not be again sold for subsequent taxes while the land remains unredeemed, and if the purchaser or assignee of the county shall pay such taxes, the amount thereof, with interest from the date of payment at the same rate as is provided upon the amount bid on the sale, shall be added to, and be part of, the money necessary to be paid for redemption from sale.

§ 20. COUNTY AUDITOR SHALL ASSIGN RIGHT OF COUNTY. WHEN. FORM OF ASSIGNMENT.] After any piece or parcel of land shall have been bid in for the county, and at any time before the time to redeem expires, and while the same shall remain unredeemed, the county auditor shall assign the right of the county in such piece or parcel of land to any person, who shall at any time before the time for redemption expires, pay the amount for which the same shall have been bid in, with interest, and the amount of any subsequent taxes, penalty and interest upon the same, and shall execute to such person an assignment, which may be substantially in the following form:

Whereas, at the sale of lands pursuant to the tax judgment entered in the district court in the county of....., on the..... day of....., in proceedings to enforce the payment of taxes for the county of....., which sale was had on the..... day of....., the following described piece or parcel of land situated in said county of....., state of North Dakota, to-wit: (Here insert description) was bid in for the county, and on this day....., having paid into the treasury of said county the amount for which the same was bid in, and all subsequent taxes, penalties and interest, amounting in all to.....dollars.

Therefore, pursuant to the law in such cases made and provided, the whole right, title and interest of said county of....., in or to said piece or parcel of land, acquired at said sale, is hereby assigned to said....., his heirs and assigns forever.

Witness my hand and seal this.....day of.....

(Signed)

..... Auditor of the County of.....

which assignment may be recorded as deeds of real estate.

§ 21. REDEMPTION. WHO MAY REDEEM. HOW.] Any person having any estate or interest in the property, wishing to redcem from such sale, may make such redemption at any time within two years by paying into the treasury of the county, to the use of the person thereto entitled:

First. If such piece or parcel shall have been bid in for the county, and the right of the county shall not have been assigned, the amount for which the same was bid in, with interest, and the amount of subsequent taxes, penalties and interest.

Second. If the right of the county shall have been assigned, the amount paid by the assignee, with interest from the day when so paid, and, if he shall have paid any taxes, penalties or interest, accruing subsequent to the assignment, the amount so paid by him, with interest from the day of such payment, and all unpaid taxes, interest and penalties that may have accrued on such piece or parcel after such assignment.

Third. If the same shall have been sold to a purchaser, the amount paid by such purchaser, with interest, and if he shall have paid any taxes, penalties or interest, accruing subsequent to sale, the amount so paid by him, with interest from the day of paying the same, and all unpaid taxes, interest and penalties accruing subsequent to such sale. Upon receipt of such payment from a redemption the treasurer shall deliver to him a receipt therefor and upon the production of such receipt to the county auditor, he shall execute to the person redeeming a certificate which may be substantially in the following form:

I,, the auditor of the county of....., state of North Dakota, do hereby certify that on the.....day of....., paid into the treasury of the county the sum of \$..... for redemption of the following described piece

or parcel of land situated in the county of....., state of North Dakota, to-wit:

(Insert description of land.)

From the sale thereof made on the.....day of....., pursuant to a tax judgment entered in the district court in the county of....., on the.....day of....., in proceedings to enforce payment of taxes for the county of....., and that said piece or parcel of land is redeemed from such sale pursuant to law.

Witness my hand and seal this.....day of.....

.....
Auditor of the County of.....

And such certificate may be recorded. If the amount so paid for the purpose of redemption is less than that required by law, it shall not invalidate such redemption, but the auditor shall be liable for the deficiency to the person entitled thereto. Such redemption shall have the effect to annul the sale.

§ 22. REDEMPTION IN CERTAIN CASES.] Minors, insane persons, idiots, or persons in captivity, or in any other country with which the United States is at war, having an estate in, or a lien on land sold for taxes, may redeem the same within two 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.

§ 23. REDEMPTION IN PART.] Any person who has an interest in or lien on an undivided estate in any piece or parcel of land sold, or an estate or interest in any part thereof, may redeem such part of the undivided estate by paying into the treasury a proportionate part of the amount required to redeem the whole estate, and in such case the certificate shall express the estate, portion of, or interest redeemed.

§ 24. PAYMENT OF EXCESS.] Upon application of the party thereto, the treasurer and upon the order of the auditor, shall pay to such party 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 the sale, or for any money paid in for redemption, which he may pay to the purchaser at the sale, or other person appearing from the copy judgment book to hold the right acquired at the sale, taking duplicate receipts therefor.

§ 25. LEASEE MAY REDEEM.] Any person in possession under a lease of any piece or parcel of land, or any part thereof, against which a judgment pursuant to this act shall have been rendered, may before the time to redeem shall expire, redeem the same. And the amount paid by him shall, unless by the terms of the lease he is bound to pay such taxes, operate as a payment of the same amount of rent to the party from whom he leases.

§ 26. FEES OF CLERK OF DISTRICT COURT.] The fees of the clerk of the district court in said proceedings shall be as follows: For making copy of list for publications, the sum of five cents for each piece or par-

cel of land described in said list. For entry of judgment against tracts as to which no answer is filed, five cents for each piece or parcel as to which judgment is entered. For making transcript of judgment for sheriff, the sum of five cents for each piece or parcel described in said transcript. For filing an answer, ten cents. For entering judgment against any tract as to which an answer is filed, fifty cents; and said fees shall be included in the amount charged to each tract in the judgment. The auditor shall receive for preparing and filing the list aforesaid the sum of ten cents for each tract therein described. All such fees, except for filing answer and entering judgment in contested cases shall be paid to the clerk and auditor out of the general fund of the county in whose behalf such proceedings are instituted, and shall be received and retained by said officers in addition to their usual compensation to reimburse them for any extra risk, labor or clerk hire imposed upon them by this act, and the fees prescribed for filing answer and entering judgment in contest cases shall be retained by the county where the proceedings are instituted.

§ 27. ADVERTISING. COUNTY COMMISSIONERS SHALL AWARD. BOND FOR.] The county commissioners shall award the advertising, provided in sections 5 and 13 of this act, to the publisher or publishers of some newspaper, daily if there be one published in the county, if not, then in some weekly newspaper, which shall have been published at the county seat of such county and circulated for at least six months prior to the time of publishing, the sum of 25 cents per folio of nonpareil type, for each of the three publications, as provided in sections 5 and 13, and who shall give a bond to the county, with at least two sureties, freeholders of the county, to be approved and in an amount to be fixed by said county commissioners, conditioned for the correct and faithful performance of such advertising. And in any suit by the county on such bond, for breach of the conditions thereof, the county shall recover as damages one-half of the taxes, penalty and interest upon each piece or parcel of land in the copy list made by the clerk, which may be affected by an error in the publication of the notice and list, or either, mentioned in section 3 of this act, wherein the printer departed from the copy furnished him.

§ 28. JUDGMENTS. CLERK SHALL DELIVER TRANSCRIPT TO SHERIFF.] When judgments shall have been entered on the issues raised by answers as to any tracts under the provisions of the act, the clerk shall deliver to the sheriff a transcript thereof, in the same manner as is provided by section 12 of this act, and the same proceedings shall thereupon be taken as to such additional tracts as is herein provided as to the tracts as to which no answer was made; provided, however, that the clerk may withhold the transcript of any judgment entered in contested cases until all, or a convenient number, of pending cases are determined and may include all such judgments in one transcript.

§ 29. COMPENSATION OF SHERIFF.] The sheriff for all acts required of him under the provisions of this act shall receive the following compensation: For receiving and collecting any money under the

provision of section 12 of this act, the same fees as are allowed by law upon an execution in a civil action.

Second. For making the sale and issuing the certificate, the sum of seventy-five cents for each piece or parcel of land sold, which sum shall be included in the amount for which the tract is offered for sale, and shall be paid to the sheriff out of the general funds of the county.

Third. For serving notice of expiration of redemption or posting same, the same fees as are allowed by law for service of summons in a civil action.

§ 30. When any piece or parcel of land shall be sold, the purchaser, after the time for redemption shall have expired, shall be entitled to immediate possession of the piece or parcel purchased by him, and if, on demand and presentation of the certificate of sale, the person in possession of the piece or parcel refuse or neglect to deliver such possession, such person may be proceeded against as a person holding over after the determination of his estate, which proceedings may be instituted and prosecuted as prescribed in the Code of Civil Procedure of this state.

§ 31. SALE. WHEN DECLARED VOID. PURCHASE PRICE AND INTEREST TO BE RETURNED TO PURCHASER.] When a sale of lands, as provided in this act, is for any cause declared void by judgment of court, the money paid by the purchaser at the sale, or by the assignee of the state or county upon taking the assignment, shall with interest at the rate of seven per cent per annum from the date of such payment be refunded 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 such money as has been paid to the state, city, village, township and school district shall be charged to the same respectively, and deducted from the next money due the state, city, village, township and school district respectively on account of taxes; provided, that if such purchaser or assignee or party holding his right, shall, after such purchase or assignment from the county have paid taxes, penalties and interest upon such piece or parcel of land, he shall have a lien on such piece or parcel for the amount of taxes, penalties and interest so paid, with interest at the rate by this act allowed, and may enforce such lien by action, or if he be in possession of such piece or parcel shall not be ejected therefrom until such amount and interest shall be paid.

§ 32. WHO MAY PAY TAXES. WHEN.] Any person may pay the taxes mentioned in section 1 of this act, on or before the day when the list is filed with the clerk of the district court as provided in section 1 of this act, by paying the amount of the tax for the several years, with interest at the rate of seven per cent per annum from the time when the taxes each year became delinquent and without any other interest, penalty, or cost; and such payment shall relieve the piece or parcel of land on which the taxes shall so be paid, from any forfeiture to the county whether valid or invalid. Judgment rendered pursuant to this act shall bear interest at the rate of two per cent per month; the amount for which any piece or parcel shall have been sold or bid in

shall bear interest at the same rate from the date of the sale. All subsequent taxes paid by the purchaser or any assignee shall bear interest at the same rate from the date of such payment; the amount paid by any person taking an assignment of the right of the county shall bear interest at the same rate, from the time of such payment.

§ 33. ASSIGNEE SHALL PRESENT ASSIGNMENT TO AUDITOR.] Whenever an assignment of any right derived from a sale provided in this act, shall be made before the time for redemption expires, the assignee shall present the assignment to the auditor, who shall note on the copy judgment book provided by section 11 the name of the assignee and the date of the assignment, and indorse on such assignment the words "countersigned," and sign his name to the same, and no such assignment shall be recorded by the register of deeds until such indorsement is made.

§ 34. RECORD OF CERTIFICATES. FORCE AND EFFECT OF.] The record of certificates provided for in this act shall have the same force and effect as evidence or otherwise, as the records of deeds of real estate.

§ 35. TAXES. LOCAL ASSESSMENT PAID. RECEIPT OF SHALL BE DEEMED PAID.] Any local assessment which any purchaser at a sale provided in this act, or any assignee of the state or county shall have paid upon any piece or parcel of land shall, if he shall have produced to the county treasurer the proper receipt for such payment, and left with him a copy thereof, be deemed taxes paid by him within the meaning of section 20 of this act.

§ 36. LIST, NOTICES, ETC. CLERK SHALL FILE.] The clerk shall attach together and keep in his office the list, notices, affidavit of publication, one copy of the newspaper in which the notice and list were published, all answers, all orders made in the proceedings, and all affidavits and other papers filed in the course of the proceedings.

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

§ 38. EMERGENCY.] Whereas, certain counties in this state have failed to proceed in accordance with the provisions of chapter 67, laws of 1897, and, whereas, the proceedings of certain counties under such act have been heretofore adjudged invalid and others may hereafter be so adjudged, an emergency exists, therefore, this act should take effect and be in force immediately upon the passage and approval.

Approved March 4, 1901.

CHAPTER 162.

[S. B. 122.]

DELINQUENT TAXES.

AN ACT to Empower the Board of County Commissioners to Offset Due or Delinquent Taxes, Due From Any Person, Corporation or Society, in Whose Favor an Indebtedness Has Accrued Against Such County.

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

§ 1. 'TAXES. COUNTY COMMISSIONERS TO OFFSET.] It shall be the duty of the board of county commissioners of any county in this state, when any bill or claim is presented to them to be audited in favor of any person, corporation or society to ascertain from the tax records of such county if the person, corporation or society to whom said credit originally accrued or presenting same is indebted to any school district, municipal corporation, county or state for personal taxes due or delinquent, and if such indebtedness shall be found to exist, to deduct the same from the bill so presented. Or if the taxes shall exceed the demands so presented, then to have the claim entered as a credit on the tax books of such county in favor of the person, corporation or society to whom said credit originally accrued, if found to be indebted for taxes due or delinquent as above provided. If no such indebtedness exists against such party, then to deduct any part due or delinquent taxes owing by the person, corporation or society presenting same and the right to offset such taxes shall be deemed to have accrued from the day the county became indebted to any person, corporation or society. Any sale, transfer or assignment thereof shall not defeat the right of the county to make such credit or offset.

§ 2. EMERGENCY.] Whereas, an emergency exists in this, that there is no provision in the existing law for offsetting due and delinquent taxes against the demand due such counties, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 11, 1901.

CHAPTER 163.

[S. B. 220.]

COLLECTION OF DELINQUENT PERSONAL TAXES.

AN ACT Providing for the Collection of Delinquent Personal Taxes by Action.

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

§ 1. PERSONAL TAXES. COLLECTION OF DELINQUENT.] Whenever it is deemed expedient by the board of county commissioners of any county to collect delinquent personal taxes by action, they shall have the power to institute such an action in the name of the county for and on behalf of the county.

§ 2. EMERGENCY.] Whereas, there is now no adequate provision of law for the collection of delinquent personal taxes by action, therefore this act shall be in force from and after its passage and approval.
Approved March 12, 1901.

CHAPTER 164.

[S. B. 135.]

COLLECTION OF PERSONAL TAXES.

AN ACT Empowering the County Commissioners to Contract with the Sheriff for the Collection of Personal Property Tax Judgments, or Personal Property Taxes Delinquent More Than One Year.

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

§ 1. PERSONAL PROPERTY TAXES. COUNTY COMMISSIONERS MAY CONTRACT FOR COLLECTION OF.] In any county where for any reason personal property taxes that have been delinquent more than one year remain unpaid, uncanceled or not put into personal property tax judgment; or in any county where delinquent taxes have been put into tax judgment, the commissioners of such county may contract with the sheriff of the county to pay him a percentage of such delinquent personal property taxes, or personal property tax judgments, as compensation for collecting the same, in lieu of or in addition to the compensation now provided by law. And such expense of collection shall be borne pro rata by the state, county, city, village, township or school district in which such tax is laid.

§ 2. EMERGENCY.] Whereas, an emergency exists in this, that there are in many counties personal property tax judgments and delinquent personal property taxes running over a term of years, that are collectible and should be collected. And whereas, it is not the duty of

the sheriff, nor is there adequate compensation to him provided by law for the collection of the same; nor is there any provision by law by which the commissioners can enter into such contract, therefore, an emergency exists, and this act shall be in force and effect on and after its passage and approval.

Approved March 1, 1901.

CHAPTER 165.

[H. B. 149.]

RIGHTS OF PURCHASER OF LAND.

AN ACT to Amend Section 1269, of the Revised Codes of the State of North Dakota, Relating to the Rights of Purchaser of Land at Sale for the Non-payment of Taxes.

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

§ 1. AMENDMENT.] Section 1269 of the Revised Codes is hereby amended to read as follows:

§ 1269. 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 the certificate, 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 parties 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; provided, however, that all rights of such purchaser and his assigns to possession, title or lien of any kind of, to or upon such piece or parcel of land, shall cease absolutely and be deemed forfeited and extinguished, unless possession thereof be taken by him, or them, or proceedings for such possession be by him or them instituted, or deed therefor be executed and delivered to him or them by the proper officer, prior to the expiration of six years from and after the date of such certificate, or in case of sales heretofore made and where five years or more have already elapsed since the date of such certificate, then prior to the expiration of one year after the taking effect of this section.

Approved March 6, 1901.

CHAPTER 166.

[S. B. 188.]

REDEMPTION OF LANDS SOLD FOR TAXES.

AN ACT to Amend Section 1289, of the Revised Codes of 1899, Relating to Notice When Time for Redemption of Lands Sold at Tax Sale Expires. Duties of Certificate Holders and Auditors.

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

§ 1. AMENDMENT.] That section 1289 of the Revised Codes of 1899 be amended to read as follows:

§ 1289. NOTICE WHEN TIME FOR REDEMPTION EXPIRES. 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 person 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 delivered to the sheriff or his deputy who shall serve it personally upon the owner, if known to be a resident of the state, but which may, if the owner be a non-resident, be given by registered letter, addressed to such owner at his last known postoffice address, and by publication 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, and in case the property covered by such certificate is occupied, then service of such notice shall, in addition to the foregoing provision, be made upon the person in possession thereof. Proof of notice herein provided for must be filed in the office of the county auditor prior to the maturing of such certificate, and no deed shall issue until such proof has been duly filed. The fees 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 ninety days after such notice; provided, that the county shall not be liable for any expense incurred under the provisions of this section; provided further, that all interest shall cease at the expiration of three years from date of the certificate.

Approved March 11, 1901.

CHAPTER 167.

[H. B. 179.]

STATE WOLF BOUNTY.

AN ACT Entitled "An Act Providing for the Repeal of Sections 1570a, 1570e, 1570f, 1570g, and 1570h, of the Revised Codes of 1899, Providing for a State Wolf Bounty and Authorizing the State Board of Equalization at Their Session in the Year 1901 to Levy a Special Tax to Pay the Amount Due on Outstanding Certificates Existing at the Time of the Taking Effect of This Act."

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

§ 1. REPEAL.] Sections 1570a, 1570e, 1570f, 1570g, and 1570h, of the Revised Codes of 1899, providing for a state wolf bounty, are hereby repealed.

§ 2. LEVY A SPECIAL TAX.] For the purpose of providing means for the payment of the outstanding certificates existing at the time of the taking effect of this act, if the amount of said certificates should be in excess of the revenue heretofore raised by the special tax authorized by section 1570g of the Revised Codes of 1899, it shall be the duty of the state board of equalization, at the time of the levy of the annual tax for the year 1901, to levy a special tax of two-tenths mills on the dollar upon the assessed valuation of all property, real and personal, and when collected paid into the hands of the state treasurer, who shall at once enter the same into the state bounty fund. Said fund shall be preserved inviolate for the payment of bounties provided in this section; provided, nevertheless, that if any funds remain after the payment in full of the certificates mentioned in this section, then and in that event the state treasurer is authorized to transfer said unexpended balance to the general fund of the state.

Approved March 12, 1901.

CHAPTER 168.

[H. B. 184.]

TAXATION OF SCHOOL AND INSTITUTIONAL LANDS.

AN ACT to Amend Section 207, of the Revised Codes, Relating to the Taxation of School and Institutional Lands After the Contract for the Sale Thereof Has Been Made, and Prohibiting the Issuance of Tax Deeds Therefor, and Providing for Dropping the Same From the Tax Lists After the Cancellation of Said Contract.

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

§ 1. AMENDMENT.] That section 207 of the Revised Codes be amended so as to read as follows :

§ 207. TAXATION OF LAND AFTER SALE. PURCHASER OF TAX CERTIFICATE.] The commissioner shall, as soon as possible, after a sale of land, transmit to the auditor of each county, in which any lands mentioned in this article have been sold, a detailed description of each parcel of the land so sold and the names of the purchasers, and the auditor shall extend the same upon his tax duplicate for the purpose of taxation, and the same shall thereupon become subject to taxation the same as other lands, and the taxes assessed thereon, collected and enforced in like manner as against other lands ; provided, however, that the purchaser at tax sale of any such lands sold for delinquent taxes shall only acquire by virtue of such purchase, such rights and interests as belong to the holder and owner of the contract of sale issued by such commissioner under the provisions of this article, and the right to be substituted in the place of such holder and owner of such contract of sale, as the assignee thereof ; and upon the production to the proper officer of the tax certificate given upon such tax sale, in case such lands have not been redeemed, such tax purchaser shall have the right to make any payment of principal or interest then in default upon such contract of sale as the assignee thereof. But no tax deed shall be issued upon any tax certificate procured under the provisions of this act while the legal title of said lands remains in the state of North Dakota. Whenever the contract for the sale of any of said lands has been cancelled, it shall be the duty of the commissioner to notify the auditor of the county in which such lands are located, of said cancellation, and thereafter such lands shall not be listed for taxation, but, in the event of the redemption of any such lands, the redemptioner shall pay as taxes, in addition to all other charges, an amount equal to the tax last levied thereon for each year such land was not listed for taxation, together with such interest and penalty as would have been charged, if the same had been regularly listed and taxed.

§ 2. EMERGENCY.] Whereas no adequate provision exists for the collection of taxes levied on school and institution lands after the cancellation of contracts for the sale thereof, an emergency is hereby declared to exist, this act shall take effect, and be in force immediately after its passage and approval.

Approved March 13, 1901.

STATE DEPOSITORIES.

CHAPTER 169.

[S. B. 157.]

RELATING TO STATE DEPOSITORIES.

AN ACT to Amend Section 238 of the Revised Codes, 1899, Relating to State Depositories.

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

§ 1. AMENDMENT.] That section 238 of the Revised Codes of 1899, be amended to read as follows:

§ 238. BOND TO BE FURNISHED.] Before any bank shall be designated as such depository it shall deposit with the state treasurer a bond payable to the state and executed by not less than seven freeholders of the state as sureties, or in lieu of such personal bond such bank or banks may file a surety company bond for a sum equal to the amount of funds such bank may receive according to this law. Such bond shall be approved by the governor and state board of auditors and shall be in such an amount as such board shall direct. If a personal bond is accepted, it shall be for a sum not less than double the amount of the funds to be deposited in such bank at any one time.

§ 2. EMERGENCY.] Whereas, an emergency exists in that there is no provision under the present law allowing the state depositories to give surety company bonds, therefore this act to take effect and be in force from and after its passage and approval.

Approved March 11, 1901.

STATE EXAMINER.

CHAPTER 170.

[S. B. 231.]

STATE EXAMINER OF BANKS.

AN ACT to Amend Sections 136, 141 and 145 of the Revised Codes of 1899, Relating to the State Examiner, His Appointment, Term of Office, Qualifications, Examination of Banks, Salary, Deputy and His Salary, and Penalty for Malfeasance.

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

§ 1. AMENDMENT.] That section 136 of the Revised Codes of 1899 be amended to read as follows:

§ 136. APPORTIONMENT. TERM OF OFFICE. QUALIFICATIONS.] There shall be a state examiner who shall be appointed by the governor and confirmed by the senate, who shall hold his office for the term of two years, and until his successor has been appointed and qualified, unless sooner removed as herein provided. The state examiner shall be a skilled accountant, an expert in the theory and practice of book-keeping, and shall not be an incumbent of any public office in the state, or of any county, municipality or public institution, therein, and shall not own, hold or control any stocks, capital or bonds, or the office of trustee, assignee, officer or employee of any banking, annuity, safe deposit, trust company, moneyed or savings institution or corporation created under the laws thereof, or created under the laws of any other state, or under the laws of the United States. In case of vacancy or death, removal, resignation or otherwise, the governor shall fill the same by appointment. The governor is authorized to remove from office any state examiner who violates, or fails faithfully to discharge the duties of his office, and to appoint his successor, who shall hold office until the end of the next legislative assembly, unless sooner removed as above provided.

§ 2. AMENDMENT.] That section 141 of the Revised Codes of 1899 be amended to read as follows:

§ 141. EXAMINATION OF BANKS.] It shall be his duty to visit, at least once in each year, without previous notice, each of the banks, banking corporations and savings banks incorporated under the laws of this state, insurance, annuity, safe deposit, loan or trust companies and other moneyed corporations and thoroughly examine into their affairs and ascertain their financial condition. It shall be the duty of such examiner to inspect carefully and verify the validity and amount of the securities held by such institutions, examine into the validity of the

mortgages held by savings institutions, and see that the same are duly recorded, and ascertain the amount of any discount or other banking transaction which he may deem foreign to the legitimate and lawful purposes of savings institutions. He shall inquire into, and report any neglect or infringement of the laws governing such banking, annuity, safe deposit, trust companies, moneyed and savings institutions, and for such purposes shall have power to examine the officers, agents and employes thereof, and all persons doing business therewith. He shall forthwith report the condition of such corporation so ascertained to the governor, together with his recommendations or suggestions respecting the same, and the governor may cause the same to be published, or in his discretion take such action as the exigencies may seem to demand.

§ 3. AMENDMENT.] That section 145 of the Revised Codes of 1899 be amended to read as follows:

§ 145. SALARY. DEPUTIES. PENALTY FOR MALFEASANCE.] The only salary of the state examiner for all services rendered in any capacity whatever, shall be two thousand dollars per year, and his actual and necessary expenses incurred in the discharge of his official duties, to be audited and paid in the same manner as the salary and expenses of the state officers are paid. He is authorized, with the approval of the governor, to appoint deputies, one who shall receive an annual salary of eighteen hundred dollars, and one who shall receive an annual salary of fifteen hundred dollars and their actual and necessary traveling expenses to be audited and paid as hereinbefore stated. And if the said examiner or his deputies, or either of them, shall directly or indirectly receive any compensation or pay for his services, or extra services, or neglect of service, other than is provided in this act, he shall be deemed guilty of felony.

Approved March 13, 1901.

CHAPTER 171.

[S. B. 176.]

SPECIAL STATE EXAMINER.

AN ACT to Amend Section 144a, Revised Codes, 1899, Relating to Appointment of Special Examiner.

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

§ 1. AMENDMENT.] Section 144a, Revised Codes, 1899, is hereby amended and reenacted to read as follows:

§ 144a. SPECIAL STATE EXAMINER.] The governor may, at such times as he may consider it for the best interest of the state, appoint a special state examiner to examine any of the state institutions or public offices. Such special state examiner shall have all the powers and au-

thority that the state examiner now has in making such examinations, and shall also examine into and report upon such other matters connected with state institutions and public offices as the governor may direct. He shall receive as compensation for such services the sum of ten dollars per day for the time actually employed upon such examinations, and his actual traveling expenses, to be paid upon vouchers approved by the governor, in the same manner as state officers' salaries are now paid.

Approved March 13, 1901.

STATE FARMERS' INSTITUTE.

CHAPTER 172.

[H. B. 88.]

STATE FARMERS' INSTITUTE.

AN ACT to Create a State Farmers' Institute Board of Directors and Prescribing its Powers and Duties, and Making an Appropriation for Conducting Farmers' Institutes.

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

§ 1. CREATING BOARD OF DIRECTORS. WHO CONSTITUTE.] There is hereby established a state farmers' institute board of directors, composed of the president of the board of trustees of the North Dakota agricultural college, the commissioner of agriculture and labor, the director of the experiment station, the professor of agriculture and the professor of dairying of the North Dakota agricultural college.

§ 2. ORGANIZATION OF BOARD.] The state farmers' institute board of directors shall have power to organize, by electing one of its members to act as president, and one to act as secretary, and shall have power, and it is hereby made its duty, to employ a director of farmers' institutes and such other institute lecturers as may be deemed necessary. To authorize the holding of not less than fifteen farmers' institutes each year, the same to be of such a nature as to instruct the farmers of the state in maintaining the fertility of the soil; the improvement of cereal crops grown in the state, principles of breeding as applied to domestic animals; the making and handling of dairy products; the destruction of noxious weeds and injurious insects; forestry and growing of fruits; feeding and management of live stock, and in general such instruction as will tend to promote the prosperity, home life and comfort of the farming population.

To determine the location of all institutes; but in determining such location those places where county or township agricultural societies are maintained, shall have the preference.

§ 3. COMPENSATION OF BOARD.] No member of this board shall receive any compensation for his services, but shall be allowed his actual and necessary traveling expenses when engaged upon business connected with the proper discharge of his duties under this act.

§ 4. APPROPRIATION FOR INSTITUTE.] There is hereby appropriated, out of any money in the state treasury, not otherwise appropriated, the sum of three thousand dollars biennially for carrying out the purposes of this act. All charges, accounts, and expenses authorized by this act shall be paid by the treasurer of the state upon the approval of the state board of audit when certified by the president and secretary of the board of directors.

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

Approved March 12, 1901.

STATE REFORM SCHOOL.

CHAPTER 173.

[H. B. 30.]

ERECTION OF BUILDINGS FOR STATE REFORM SCHOOL.

AN ACT to Provide for the Issuance of Bonds for the Erection of Necessary Buildings for the State Reform School at Mandan, North Dakota.

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

§ 1. STATE REFORM SCHOOL. ERECTION OF BUILDINGS.] To provide for the erection of necessary buildings, their proper equipment, and for the establishment of the state reform school at Mandan, North Dakota, the board of trustees of the said state reform school may issue bonds for such sum or sums of money as can be actually used in the construction of permanent buildings and necessary furnishing and other necessary improvements, to be made for the establishment and maintenance of said state reform school, not exceeding the sum of \$20,000; said bonds shall be in denominations of \$1,000 each, and shall bear interest at a rate not exceeding six per centum per annum, and shall be payable in twenty years from the date of issue, from the interest and income fund accumulating from the sale, rental, or lease of

lands donated to the said state reform school by section 17 of the Enabling Act for the admission of North Dakota, South Dakota, Montana and Washington, approved February 22, 1889, and confirmed by article XIX, section 215, of the constitution of North Dakota, or from the rental or lease of said lands. The interest on such bonds shall be paid annually on the first day of January of each year, and shall be payable from the interest and income accumulating from the sale, rental or lease of lands apportioned to the institutions, provided, if at any time there shall not be sufficient money to pay such interest, there is hereby appropriated out of the state treasury, out of funds not otherwise appropriated, a sum sufficient to meet such interest; provided, further, that a sufficient amount of funds accumulating in the interest and income fund for sale or rental of land or lands appropriated to the state reform school, shall be used and applied solely for the payment of interest on such bonds and for the creation of a sinking fund with which to pay such bonds at maturity.

§ 2. MONEYS. TO BE DEPOSITED WITH STATE TREASURER.] All moneys that may arise or be derived from the sale, rental or lease of lands appropriated to the state reform school shall be deposited with the state treasurer, to be used exclusively for the benefit of said state reform school.

§ 3. EMERGENCY.] Whereas, an emergency exists in that the state of North Dakota has no institution for the care and detention of incorrigible children and youthful offenders, and must send them at heavy expense to a neighboring state or turn them loose to prey on society; therefore, this act shall take effect immediately on its passage and approval.

Approved March 13, 1901.

STATE TREASURER.

CHAPTER 174.

[S. B. 170.]

STATE TREASURER.

AN ACT Providing that Certain Records Shall be Kept in the Office of the State Treasurer.

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

§ 1. STATE TREASURER TO KEEP RECORDS.] The state treasurer shall keep as permanent records of the state, a cash book in which shall be entered the amount of all moneys received or paid out, showing from whom received or to whom paid, on what account, fund or appropriation.

A ledger in which shall be kept an account, with each fund and appropriation.

A daily balance book in which shall be shown the amount in state depositories and in cash on hand.

And such other books as the state examiner shall prescribe.

§ 2. BOOKS AND BLANKS FURNISHED BY STATE AND KEPT AS STATE RECORDS.] All checks and drafts, deposit slips, bank books and other books used in the transactions of the state treasurer in his connection with state business, shall be furnished by the state and be kept as the permanent records of his office.

§ 3. EMERGENCY.] Whereas, an emergency exists, in that there is a lack of important records of the financial business of this state, therefore, this act shall be in force on and after its passage and approval.

Approved March 8, 1901.

SLANDER.

CHAPTER 175.

[H. B. 100.]

SLANDER OF FEMALES.

AN ACT Defining Slander of Females and Making the Same a Misdemeanor.

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

§ 1. SLANDER. FEMALES.] A person who, in the presence and hearing of another, other than the female slandered, whether such female be present or not, maliciously speaks of or concerning any female of the age of twelve years or upwards, not a public prostitute, any false or defamatory words or language, which injures or impairs the character of such female for virtue or chastity, and which exposes such female to hatred, contempt or ridicule, is guilty of a misdemeanor.

Approved March 7, 1901.

STATE SUPERINTENDENT IRRIGATION AND FORESTRY.

CHAPTER 176.

[H. B. 6.]

REPEAL OF LAW.

AN ACT to Repeal Chapter 76 of the Session Laws of 1891, Being an Act Entitled "An Act Creating the Office of State Superintendent of Irrigation and Forestry, and Prescribing the Duties Thereof."

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

§ 1. REPEAL.] Chapter 76 of the Session Laws of 1891, being an act entitled "an act creating the office of state superintendent of irrigation and forestry, and prescribing the duties thereof," is hereby repealed.

Approved February 20, 1901.

STATE FUNDING WARRANTS.

CHAPTER 177.

CONCURRENT RESOLUTION.

Be it resolved by the Senate of the State of North Dakota, the House of Representatives Concurring:

STATE FUNDING WARRANTS.

That the state treasurer, with the advice and consent of the governor and state auditor, be hereby authorized and instructed to negotiate and dispose of state funding warrants, not to exceed one hundred and fifty thousand dollars, at such discount as will allow a reasonable rate of interest. Such indebtedness to become due and payable on or before March 1st, 1902. The condition of the treasury is such that there is no money in the general fund to meet the balance of the expenditures of the legislature, the state institutions and miscellaneous expenses of the state, the collection of taxes from the counties from now until July will not be sufficient to meet these expenses;

Therefore, This loan is necessary to protect the credit of the state and state institutions.

STATE'S ATTORNEY.

CHAPTER 178.

[S. B. 145.]

DUTIES OF STATE'S ATTORNEY.

AN ACT to Amend Section 1979, of the Revised Codes of 1899, Relating to Duties of State's Attorney.

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

§ 1. AMENDMENT.] That section 1979, of the Revised Codes of the state of North Dakota, be amended to read as follows:

§ 1979. DUTIES OF STATE'S ATTORNEY.] The state's attorney is the public prosecutor, and must:

1. Attend the district court and conduct on behalf of the state all prosecutions for public offenses.

2. Institute proceedings before magistrates for the arrest of persons charged with or reasonably suspected of public offenses, when he has information that such offenses have been committed; and for that purpose, when not engaged in criminal proceedings in the district court, must attend upon the magistrates in cases of arrest, when required by them, except in cases of assault and battery and petit larceny, and attend before, and give advice to the grand jury whenever cases are presented to them for their consideration.

3. Draw all indictments and informations, defend all suits brought against the state or his county, prosecute all bonds forfeited in the courts of record and all actions for the recovery of debts, fines, penalties and forfeitures accruing to the state or his county.

4. Deliver receipts for money or property received in his official capacity, and file duplicate receipts therefor with the county auditor.

5. On the first Mondays of January, April, July and October in each year, file with the county auditor an account, verified by his oath, of all money received by him in his official capacity during the preceding three months and at the same time pay it over to the county treasurer.

6. Give when required, and without fee, his opinion in writing to the county, district, township and school district officers, on matters relating to the duties of their respective offices.

7. Keep a register of all official business, in which must be entered a note of each action, whether civil or criminal, prosecuted officially, and of the proceedings therein.

8. Make a written report to the attorney general, on the first day of each month, of all proceedings instituted or pending in his county in any court, other than justice courts, wherein the state is a party or is interested; which reports shall give the title of the case, the date when commenced, the purpose of the action, the proceedings had and taken therein, and the final disposition of such cases.

9. It is the intention of this act to make the attorney general, his assistants, and the state's attorney the only public prosecutor in all cases civil and criminal, wherein the state, or county, is a party to the action. and that they only shall be authorized and empowered to perform the duties herein set forth, except as hereinafter provided. The attorney general or his assistants are authorized to institute and prosecute any cases in which the state is a party, whenever in their judgment it would be to the best interests of the state so to do, and in case the state's attorney of any county refuses or neglects to perform any of the duties prescribed in subdivisions 2 and 3 of this section, after it has been properly brought to his attention, or when he has information that a public offense has been committed, or that a civil suit in which the state is a party, should be instituted and the fact of such a refusal or neglect to perform such duty, and that the action is one that should be prosecuted, has been brought before the judge of the district court in the judicial district having jurisdiction of such action, by affidavit or otherwise, and said judge is satisfied that such action should be prosecuted, and that said attorney has failed or neglected to perform his duty, then in that case, he shall request the attorney general or an assistant attorney general to take charge of such prosecution, or he shall appoint, by an order to be entered upon the minutes of the court, some suitable person, an attorney at law, and the person so appointed shall thereupon be vested with all the powers of such state's attorney for that action, but for no other purpose, and the district court shall by order, to be entered in the minutes of the court, fix his fee therefor, which amount shall be allowed by the board of county commissioners and which amount, if so ordered by the court, shall be deducted from the salary of the state's attorney and the person so appointed shall be the only person authorized to proceed therein; provided, however, that nothing herein contained shall prevent the county commissioners of any county, in cases of public importance and with the advice and consent of the state's attorney, employing such additional counsel as may be deemed advisable, to assist the state's attorney upon such compensation as may be agreed upon. Provided, further, that the provisions of this act shall not be construed so as to abridge any of the powers conferred upon the attorney general, his assistants, or the state's attorney, or to relieve them from the infliction of any punishment, fine or forfeiture, for neglect of duty, as prescribed by the provisions of chapter 63 of the Penal Code, commonly known as the prohibition law.

Approved March 11, 1901.

STATION HOUSES.

CHAPTER 179.

[H. B. 151.]

MAINTENANCE OF STATION HOUSES.

AN ACT to Amend Section 2985 of the Revised Codes of 1899, Relating to Maintenance of Station Houses.

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

§ 1. AMENDMENT.] That section 2985, of the Revised Codes of 1899, be amended so as to read as follows:

§ 2985. WHEN STATION HOUSE TO BE MAINTAINED.] Every railroad corporation in the state shall build a station house and keep a station agent twelve months each year at all its sidings where there is grain and merchandise of any description to be shipped, the freight on which amounts to twenty-five thousand dollars or more in any one year, and the freight receipts of incoming shall amount to three thousand dollars (\$3,000) per annum, or more.

§ 2. EMERGENCY.] Whereas, an emergency exists in that many railroad stations have been closed, to the great detriment of business, and inconvenience to a large number of citizens, therefore this act shall take effect and be in full force upon its passage and approval.

Approved March 12, 1901.

SERVING NOTICES.

CHAPTER 180.

[S. B. 142.]

SERVING NOTICES AND PAPERS.

AN ACT to Amend Section 5730, Revised Codes, Relating to Service of Notices and Papers.

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

§ 1. AMENDMENT.] Section 5730, Revised Codes, is hereby amended so as to read as follows:

§ 5730. SERVICE ON NON-RESIDENT.] When a plaintiff, or a defendant who has demurred or answered or given notice of appearance in an action, has no attorney of record in such action, who is a resident of this state, service may be made on the clerk of the court in which the action is pending for such party, and the clerk shall thereupon forthwith enter such service in the record of the case in his register of actions, and deliver the notice and papers so served to such party on demand therefor.

The provisions of section 5727 shall apply to service made on the clerk for the party.

§ 2. EMERGENCY.] There being no plain and expeditious method of service of notices of papers in an action on a party thereto who has no attorney in the case, this act shall take effect and be in force from and after its passage and approval.

Approved March 8, 1901.

SEED LIEN.

CHAPTER 181.

[S. B. 106.]

SEED GRAIN LIEN.

AN ACT to Amend Section 4820, of the Revised Codes of 1899, Providing for a Lien for Grain to be Used for Seed.

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

§ 1. AMENDMENT.] That section 4820, of the Revised Codes of 1899, be amended to read as follows:

§ 4820. SEED LIENS. WHO MAY HAVE.] Any person who shall furnish to another seed to be sown or planted on the lands owned or contracted to be purchased, used, occupied or rented by him, shall upon filing the statement provided for under section 4821 of the Revised Codes, 1899, have a lien upon all the crop produced from the seed so furnished, to secure the payment of the purchase price thereof.

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

§ 2. EMERGENCY.] The present seed grain laws being inadequate, therefore an emergency exists, and this law shall be in effect from and after its passage and approval.

Approved March 1, 1901.

SHEEP INSPECTION.

CHAPTER 182.

[S. B. 216.]

SHEEP INSPECTION.

AN ACT to Amend and Re-enact Sections 1636 and 1636a of the Revised Codes of the Revision of 1899.

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

§ 1. AMENDMENT.] That sections 1636 and 1636a of the Revised Codes of the revision of 1899, be, and the same are hereby amended and re-enacted to read as follows:

§ 1636. POWER OF INSPECTORS.] That five days notice shall be given to the sheep inspectors, by persons intending to bring sheep into any county in this state from another state for the purpose of grazing said sheep upon lands in this state, which notice shall state the place where such sheep are located, and the nearest place to the line where the said sheep may be inspected. In all cases where scab or other contagious diseases are found in a flock of sheep, the sheep inspector is hereby empowered to prescribe what dip or other remedy shall be applied, and specify the manner of treatment.

§ 1636a. DUTY OF INSPECTORS.] It is hereby made the duty of sheep inspectors of this state to cause to be dipped all sheep that come into the state for the purpose of running upon or grazing on the lands of this state, which dipping shall be done under such rules and regulations as the sheep inspector may prescribe. And after said dipping the said inspector shall cause the sheep so dipped to be quarantined for not less than twenty days, or until the said sheep inspector shall be satisfied that the said sheep are entirely free from disease; provided, that this section shall not apply to sheep while on railway cars or in railway stock yards, accompanied by proper certificates of health and which sheep are not detained in the state more than sixty hours.

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

§ 3. EMERGENCY.] Whereas, the present laws of this state are vague and indefinite as to the duties of the sheep inspector in the cases herein provided, and said laws are capable of working great damage to the residents of this state, therefore an emergency exists, and this act shall take effect and be in force immediately upon its passage and approval.

Approved March 12, 1901.

SPINNING FIBERS.

CHAPTER 183.

[S. B. 93.]

SPINNING FIBERS.

AN ACT Repealing Sections 1675, 1676, 1677 and 1678, Revised Codes, 1899, Relating to Bounties for the Manufacture of Spinning Fibres.

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

§ 1. REPEAL.] Sections 1675, 1676, 1677 and 1678, Revised Codes, 1899, are hereby repealed.

Approved March 11, 1901.

SODA WATER.

CHAPTER 184.

[H. B. 181.]

ILLEGAL USE OF BRANDS, LABELS, ETC., USED BY MANUFACTURERS OF SODA WATER, ETC.

AN ACT to Amend Section 7264 of the Revised Codes, Prescribing a Penalty for the Illegal Use of Names, Brands, Labels, and Trademarks Used by Manufacturers of, and Dealers in Soda, Mineral Water and Other Like Beverages.

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

§ 1. AMENDMENT.] That section 7264 of the Penal Code of this state be amended so as to read as follows, to-wit:

§ 7264. REFILLING OR SELLING BOTTLES.] Whenever any person, firm or corporation engaged in the manufacturing, bottling, or sale of soda water, mineral water, and other like beverages, in any county of this state, shall have recorded or filed with the register of deeds of the proper county, as is now provided, or shall hereafter be provided by law, the name, brand, label and trade mark, or any of them, used by him, or is for the purposes of the business of such person, firm or corporation, every other person who, without the written consent of such manufacturers or dealers, refills with any beverage, whether genuine or otherwise, with the intent to sell the same, any bottles, stamped with or bearing such name, brand, trademark or label, and every person who sells, disposes of, purchases or traffics in such bottles, is liable to a penalty of fifty cents (50 cents) for each and every bottle so filled, sold, bought, disposed of or trafficed in, for the first offense, and five dollars (\$5.00) for each and every bottle so filled, bought, disposed of or trafficed in for every subsequent offense.

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

Approved March 8, 1901.

CHAPTER 185.
[H. B. 180.]

PROTECTION OF MANUFACTURERS OF SODA WATER, ETC.

AN ACT for the Protection of Manufacturers of Soda Water, Mineral Water, and Other Like Beverages.

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

§ 1. SODA WATER AND OTHER BEVERAGES. PROTECTION OF MANUFACTURERS OF.] It shall be the duty of the register of deeds of any county in this state, on the application of any person, firm or corporation lawfully manufacturing, selling or bottling within this county, soda water, mineral water, and other like beverages, to record in a book suitable for such purposes a description of the names, brands, trade marks, and labels, or any of them, used by such person, firm or corporation for making his or its casks, kegs, barrels, bottles, jugs, fountains, boxes or other packages, which book shall be and remain a public record in his office.

§ 2. NAME, BRAND, OR TRADE MARK. REGISTER OF DEEDS TO RECORD.] The register of deeds shall collect of any such person, firm or corporation making application to have any such description of name, brand or trade mark recorded in said register of deeds' office, a registration fee of fifty cents (50 cents) for each and every such description of name, brand, label or trade mark before the same shall be received for record and entered upon the books of the register of deeds office.

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

§ 4. EMERGENCY.] Whereas, an emergency exists in that the manufacturers of and dealers in soda water, mineral water, and other like beverages have no present means of recording their brands, labels and trade marks, this act shall take effect and be in full force from and after its passage and approval.

Approved March 5, 1901.

SCHOOL DISTRICTS.

CHAPTER 186.

[S. B. 42.]

SPECIAL SCHOOL DISTRICTS.

AN ACT to Provide for the Creation of Special School Districts in Incorporated Cities, Towns and Villages Constituting a Part of a School District, and to Divide the Property and Indebtedness of Such School District.

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

§ 1. SPECIAL SCHOOL DISTRICTS. CREATION OF.] Whenever any incorporated city, town or village having a population of over two hundred inhabitants, shall constitute a portion of a school district, it may be organized into a special school district and the property and indebtedness of such organized school district divided as hereinafter provided.

§ 2. SUPERINTENDENT SHALL CALL ELECTION ON PETITION. WHEN.] In such case a petition, signed by a majority of voters of such school district as shown by the last school election therein, may be presented to the county superintendent of schools for the division of such school district and the organization of such city, town or village into a special school district, and setting forth in detail the manner and terms of the division of the property, real and personal, and of the indebtedness, bonded or otherwise, of such school district as desired by the petitioners, and thereupon such superintendent shall within five days call an election to be held in such incorporated city, town or village, and an election to be simultaneously held in that portion of such school district situated outside of the limits of such city, town or village.

§ 3. NOTICE OF ELECTIONS.] Such superintendent shall cause notice of each of such elections to be given by publishing notice thereof, stating the time and place of holding such elections, in a newspaper published in such school district, if any, and if there is no newspaper published in such school district, then by posting notices of the election to be held in such city, town or village, in five public places therein, and by posting notices of the election to be held outside such city, town or village in five public places in said district outside such city, town or village. Such notices shall be so published or posted not less than ten nor more than fifteen days before such elections. Such superintendent shall appoint judges and clerks of such elections, and the same shall be held and conducted in the same manner, and the polls shall be opened

and closed at the same time as in other school district elections, and the results of such elections shall be certified and delivered to such superintendent immediately upon the close of the polls.

§ 4. **BALLOTS. WHAT PRINTED ON.]** There shall be printed on the ballots used at such elections the following statement: "For the division of (here state the name of the school district to be divided) and the division of its property and debts as follows (here state the manner and terms of such division as set forth in the petition filed); The voter shall write after such statement the word "Yes" if in favor of such division, and the word "No" if against it.

§ 5. **SUPERINTENDENT SHALL NOTIFY PRESIDENT OF SCHOOL BOARD.]** Such superintendent shall thereupon forthwith notify the president of the school board of such school district, and the auditor or clerk of such city, town or village, of the result of such elections.

§ 6. **DIVISION OF DISTRICT. WHEN.]** If such elections shall each be in favor of the division of such school district, such incorporated city, town or village shall thereafter constitute a special school district, and such original school district situated outside such city, town or village shall constitute a school district.

§ 7. The county superintendents shall thereupon call an election for the election of officers of such special school district, and school district, of which notice shall be given for at least fifteen days, which election shall be held as in other cases, in school districts, and special school districts, and such special school district shall thereafter be subject to all provisions of law affecting other school districts.

§ 8. **DIVISION OF PROPERTY.]** Such school district and such special school district shall thereupon proceed to divide the property of such original school district according to such petition, and shall be bound respectively to pay the indebtedness of such district as provided in such petition, and may make any contracts or conveyances necessary to carry into effect all the provisions of such petition.

§ 9. **BONDED INDEBTEDNESS. TAX TO BE LEVIED TO PAY.]** In case such original school district shall have outstanding any bonded debt for the payment of which no sufficient levy of taxes has been made, the board of education of such special school district, and the school board of such school district, shall at the time of making the next annual tax levy, levy a tax sufficient to pay the interest and also the principal of so much of such bonded debt as shall be assumed by such special school district, and such school district respectively as the same mature, and shall designate the amount of such tax to be collected in each year thereafter, and shall certify such levy to the county auditor, who shall thereupon enter and extend upon the tax list in each year the amount of such tax to be collected in that year.

§ 10. **BONDED DEBT. SPECIAL SCHOOL DISTRICT AND SCHOOL DISTRICT TO PAY.]** Such special school district and such school district shall provide for and pay according to the terms of the bonds, such portion of such bonded debt as is assumed by it.

§ 11. **SPECIAL SCHOOL DISTRICTS. FORMATION OF UNDER PRESENT LAW NOT PROHIBITED.]** Nothing in this act shall be construed to pre-

vent or affect the formation of special school districts in accordance with the provisions of law now in force, or to require the equalization or adjustment of the property assets or indebtedness of districts formed under the provisions of this act, otherwise than as herein provided.

§ 12. EMERGENCY.] Whereas, there is no provision of law for the division of school districts and school property by mutual agreement, this act shall take effect and be in force from and after its passage and approval.

Approved March 12, 1901.

CHAPTER 187.

[H. B. 86.]

SCHOOL DISTRICT TREASURERS' BONDS.

AN ACT to Provide for the Giving of Proper Official Bonds by School District Treasurers, and to Provide for the Payment of the Premiums on Same.

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

§ BONDS. SCHOOL DISTRICT TREASURERS TO GIVE.] That every person hereafter elected to the office of district school treasurer, within the state of North Dakota, be, and is hereby required to give an official bond in a penal sum to be fixed by the board of directors, which bond shall not be in a less penal sum than double the amount of money likely to come into his hands in any one year, and such board may by resolution require that such bond shall be executed by some responsible fidelity or surety company authorized and qualified to do business in the state of North Dakota, and subject to approval as provided by law; provided, further, if a surety bond is given it shall be given for a sum fixed by the board of directors.

§ 2. PREMIUM. HOW AUDITED AND PAID.] The amount of premium for such surety or fidelity bond, shall be audited by the board of directors and paid out of the general fund of the district.

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

Approved March 8, 1901.

CHAPTER 188.

[H. B. 126.]

STABLES AND HITCHING POSTS FOR PUBLIC SCHOOLS.

AN ACT Providing Stables and Hitching Posts on School Sites in Rural School Districts.

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

§ 1. STABLES AND HITCHING POSTS. SCHOOL SITES.] If in any rural school district, a petition signed by the persons charged with the support, and having the custody and care of eight or more children of school age, is presented to the school board asking for the building of a suitable stable upon the school site, the board shall provide such stable without unnecessary delay.

§ 2. HOW MANY.] It shall be the duty of the school board in rural districts to provide four substantial hitching posts for each school site in the district.

Approved March 12, 1901.

CHAPTER 189.

[S. B. 104.]

DIVISION OF SCHOOL DISTRICTS.

AN ACT to Amend Section 662, Revised Codes, 1899, Relating to Division of School Districts.

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

§ 1. AMENDMENT.] That section 662, of the Revised Codes, 1899, of North Dakota, be, and the same is hereby amended to read as follows:

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

ever portions of a school corporation lie in different civil townships, there may be created therefrom two or more distinct school corporations, when, in the judgment of such commissioners and superintendent, such change can be made without detriment to the schools or to the pupils therein, and the division can be made by following the boundary line, or lines, of congressional townships, or the meander lines of the government survey.

Approved March 5, 1901.

CHAPTER 190.

[S. B. 225.]

SPECIAL SCHOOL FUNDS.

AN ACT to Provide for the Investment of the Sinking Funds of Special School Districts and to Prescribe a Mode of Executing, Satisfying, and Foreclosing Mortgages Taken Upon Such Investments.

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

§ 1. INVESTMENT OF SINKING FUNDS. SCHOOL DISTRICTS.] All moneys raised for the purpose of creating a sinking fund for the final redemption of all bonds issued under article 17 of chapter 9 of the Civil Code of this state shall be invested annually by the board of education of any special school district in this state as follows, viz.:

1. In the bonds of this state or of the United States.

2. Special school district board may designate one or more national or state banks in the county where such special school district is situated, as a depository for such sinking fund, and in such case the school board shall advertise for at least two (2) weeks in some newspaper printed within the limits of said special school district, if there be one, if not, in the county where said school district is situated, for sealed proposals for the deposit of the sinking fund of such school district, reserving the right to reject any and all bids, satisfying itself of the responsibility of all banks proposing to act as depositories. Before any bank shall be designated as such depository it shall present to the school board a sealed proposal stating in writing what rate of interest will be paid for the deposit of such sinking funds, and shall submit to the board for its approval, a bond payable to the special school district conditioned for the safe keeping and repayment of any funds deposited in such bank, which bond shall be signed by not less than three (3) freeholders of this state as sureties, or some surety bond company qualified to do business in this state, and such bond to be in the sum required by the school board and in no case to be less than double the probable amount of the funds to be deposited in such bank. The ap-

proval of such bond shall be indorsed thereon by the board and deposited with the county auditor, and any bank whose bond shall have been so approved shall thereupon be designated by the school board as a depository for the sinking fund, and shall continue as such, until such time as the board shall direct the withdrawal of such funds, or until such funds are needed for the payment or the purchase of bonds, as provided for in this act. When the sinking fund of any special school district is deposited by the treasurer of the board of education of said school district in the name of the school district as such depository, such treasurer and his sureties shall be exempt from all liability thereon by reason of loss of any such funds from the failure, bankruptcy or any other act of any such bank, to the extent only of such funds in the hands of such bank or banks at the time of such failure or bankruptcy. Such depository shall furnish to the clerk of the board of education of such special school district prior to the fifth day of July of each year, a verified statement of the school district account with such depository for the year ending June 30, which statement shall show a credit to such deposit account of all sums of interest accruing on the sinking fund deposited.

3. The board of education of any special school district may buy and cancel the bonds of such district and pay for the same with the moneys in the sinking fund created to pay such bonds.

4. In first mortgages on farm lands in this state only in the following manner, to-wit:

a. That said first mortgages and all of them, shall run for a period of time and not exceed ten (10) years, and that the funds so invested shall bear interest at a rate not less than six (6) per cent per annum and such interest when paid shall be covered into, and become a part of, the said sinking fund.

b. First mortgage loans shall only be made upon cultivated lands within the state, and to persons who are actual residents thereof. And in no case on lands of which the appraised value is less than seven dollars and fifty cents (\$7.50) per acre, and in sums not more than one thousand dollars (\$1,000) to any one person, firm or corporation. Such appraisement to be made by the school board of such special school district or by some competent person designated by them for the purpose.

c. All or any of said mortgages may be satisfied at any time after five (5) years from the date when made, on payment of the full amount due thereon, by an instrument in writing executed in the corporated name of the special school district which shall be the payee in all notes taken for loans as herein provided, and the mortgagee in all mortgages taken. Such instrument to be executed and acknowledged in the same manner as is or may be provided for by law for the execution and acknowledgment of transfers of real estate by corporations. Such mortgages may be foreclosed by advertisements or an action in the name of the special school district in any court of competent jurisdiction as is now or may be provided by law.

§ 2. REPEAL.] All acts or parts of acts inconsistent herein are hereby repealed.

§ 3. EMERGENCY.] Whereas, an emergency exists in that there is no present method authorizing the investment of sinking funds, as herein provided, owing to the difficulty of procuring bonds for the investment of such funds, such funds remain uninvested, this act shall be in force on and after its passage and approval.

Approved March 13, 1901.

SCHOOL LANDS.

CHAPTER 191.

[H. B. 59.]

LEASE AND SALE OF SCHOOL LANDS.

AN ACT to Amend Section 234b, Revised Codes of 1889, Being an Act Relating to the Charging and Collecting of Fees at the Leasing and Sale of School Lands.

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

§ 1. AMENDMENT.] That section 234b, Revised Codes of 1889, be revised to read as follows:

§ 234b. FEES FOR SERVICE. DUTY OF COUNTY TREASURERS.] It shall be the duty of the commissioner of university and school lands to charge and collect the following fees: For each one year lease of school or other state lands, \$1.50. For each lease for a period of more than one year, \$3. For each contract for lands purchased, \$5. For each patent, \$5. For approving and recording each assignment of school land contract, \$5. For furnishing certified copies of school land contracts, \$3. All fees must be paid in advance, and when collected must be paid into the state treasury at the end of each month and be placed to the credit of the expense fund of the board of university and school lands. It shall be the duty of the county treasurer of any county where any such lands are leased, or sold, to collect the fees hereinbefore provided for, at the time the first payment thereon is made for leases and contracts of sale, and transmit the same to the commissioner on the first day of each month.

§ 2. EMERGENCY.] Whereas, an emergency exists, in that there is now no adequate provision made for the collection of such fees, this act shall take effect and be in force from and after its passage and approval.

Approved March 7, 1901.

CHAPTER 192.

[H. B. 99.]

LEASING SCHOOL LANDS.

AN ACT to Amend Section 220, Chapter 4, of the Revised Codes of 1899, Relating to Advertisements for Leasing of School Lands.

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

§ 1. AMENDMENT.] That section 220, chapter 4, of the Revised Codes of 1899, be, and the same is hereby amended to read as follows:

§ 220. ADVERTISEMENT FOR LEASING.] All such lands to be leased, or offered for lease, lying within the respective counties, shall by the board of university and school lands, be advertised for lease by publication once a week for not less than sixty days, in some newspaper or newspapers of general circulation in the vicinity of such lands. Such advertisement shall contain the designation or proper description of each tract or parcel of land so to be leased, the appraised value of each tract and the per cent on such valuation fixed by the board as the minimum price at which such land can be 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, and a notice of the time and place where the said lands are to be leased shall also be published for not less than sixty days in one newspaper at the seat of government by such board of university and school lands; provided, that if in the opinion of the board there will not be sufficient of such lands situate in any county leased, to warrant the expense of advertisement in a newspaper by description of each tract or parcel, the notice may be given by general advertisement.

§ 2. EMERGENCY.] Whereas, an emergency exists in that the present law does not provide for the publishing of a general advertisement, this law shall be in full force and effect from and after its passage and approval.

Approved March 12, 1901.

CHAPTER 193.

[H. B. 58.]

COLLECTION OF MONEYS FROM THE SALE OF SCHOOL LANDS.

AN ACT to Amend Section 175 of the Revised Codes, Relating to the Collection of Moneys Arising from the Disposal of University, School and Other Public Lands, and Authorizing the Foreclosure of Mortgages Held by the State, and Assignment of Same in Certain Cases.

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

§ 1. AMENDMENT. INVESTMENTS. HOW UNPAID MONEYS TO BE COLLECTED.] That section 175 of the Revised Codes be amended so as to read as follows:

§ 175. It shall be the duty of the state treasurer, from time to time as the same become due, to collect all moneys due and owing on any and all of the securities held by him for investment or for permanent funds, and from time to time, whenever required by the board, to make report of the amount of such collections to the board and a duplicate of the same to the state auditor. If any such moneys shall remain unpaid for thirty days after the same shall become due and payable, he shall make report in detail of all such unpaid amounts to the board, who shall place the matter in the hands of the attorney general for collection whenever they shall deem it for the best interest of the state so to do, whose duty it shall be to proceed to collect the same by civil action, to be brought and prosecuted in the name of the state; provided, that mortgage loans made under the provisions of this chapter may be foreclosed either by action or advertisement, in the same manner and upon the same notice as required in other real estate foreclosures. When foreclosure is made by action, said action shall be brought and prosecuted in the name of the state; provided, further, that the board of university and school lands, may, and it is hereby authorized and empowered to assign any or all of said mortgages, whenever in the judgment of said board it will be for the best interests of the state so to do; provided, however, that said board shall not accept as a consideration for said assignment any amount less than the principal and interest due upon said mortgage or mortgages. Such assignments when made shall be executed by the governor and attested by the secretary of state with the great seal of the State of North Dakota attached.

§ 2 EMERGENCY.] Whereas, an emergency exists in that there is now no law providing for foreclosure of mortgages and assignments of same mentioned herein, and there being mortgages of this class in default, this act shall take effect from and after its passage and approval.

Approved March 12, 1901.

SUMMONS AND COMPLAINT.

CHAPTER 194.

[S. B. 3.]

SUMMONS AND COMPLAINTS.

AN ACT to Amend Section 5256, Revised Codes of 1899, Relating to Mailing Summons and Complaint.

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

§ 1. AMENDMENT.] Section 5256, Revised Codes, is hereby amended so as to read as follows:

§ 5256. MAILING SUMMONS AND COMPLAINT.] A copy of the summons and complaint must, within ten days after the first publication of the summons, be deposited in some postoffice in this state, postage prepaid, and directed to the defendant to be served, at his place of residence, unless the affidavit for publication states that the residence of the defendant is unknown. Such copy of summons and complaint may be so mailed by registered letter, in which case, the return registry receipt of the postoffice department shall be prima facie proof of its mailing, and of its receipt by the defendant to whom it was mailed.

Approved February 26, 1901.

TRANSFER FACILITIES.

CHAPTER 195.

[S. B. 164.]

TRANSFER FACILITIES.

AN ACT to Provide for Transfer Facilities at Track Crossings at Grade of Common Carriers, Determining How the Expenses of Such Track Crossings Shall be Paid.

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

§ 1. TRANSFER FACILITIES.] All common carriers, doing business in the state of North Dakota, shall provide at all points of connection, crossing or intersection at grade where it is practicable and necessary for the interest of traffic, ample facilities by track connections for transferring any cars used in the regular business of their respective lines of road, from their lines or tracks to those of any other common carrier whose lines or track may connect with, cross or intersect their own, and shall provide equal and reasonable facilities for the interchange of cars and traffic between their respective lines, and for the receiving, forwarding and delivering of property and cars to and from their several lines and those of other common carriers connecting therewith, and shall not discriminate in their rate or charges between such connecting lines, or on freight coming over such lines; but this shall not be construed as requiring any common carrier to furnish for another common carrier its tracks, equipment or terminal facilities without reasonable compensation; that each of said connecting lines shall pay its proportionate share for the building and maintenance of such track and switches as may be necessary to furnish the transfer facilities required by this act, and in case they cannot agree on the amount which each line shall pay, then said amount shall, upon application by either party, be determined and adjusted by the board of railroad commissioners, and either party shall have the right to appeal from the order of said board, fixing the amount so to be paid, to the district court of the county where said transfer facilities are furnished, by serving a notice in writing on the adverse party within ten days after the making and filing of such order by said board, and upon the service of such notice there shall be pending in said district court a civil action for the adjustment and determination of the amount to be paid by each carrier for the expense of the building and maintenance of such transfer facilities. Pleadings shall be made, served, and filed in said action in conformity to those required by law and rules of practice in said court, and said cause shall be tried in the manner provided for the trial of civil actions in the district courts of this state.

Approved March 13, 1901.

TRANSPORTATION OF PRISONERS.

CHAPTER 196.

[S. B. 173.]

TRANSPORTATION OF PRISONERS AND PATIENTS.

AN ACT Entitled an Act Amending Section 2084 of the Revised Codes, 1899, Relating to Fees for Transportation of Prisoners and Patients.

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

§ 1. AMENDMENT.] Section 2084, Revised Codes, 1899, is hereby amended and reenacted to read as follows:

§ 2084. FEES FOR TRANSPORTATION OF PRISONERS AND PATIENTS.] The necessary expenses and legal fees of sheriffs and other officers incurred in conveying prisoners to the penitentiary or reform school, or patients to the hospital for the insane, shall be audited as other accounts against the state are audited, and paid out of the state treasury. The auditor may allow for such expenses and fees, the following rates:

1. Three dollars per day for the time of the sheriff or other officer necessarily spent in going to and returning from such penitentiary, reform school or hospital, by the nearest route.

2. Two dollars and fifty cents per day for each guard necessary for conveying prisoners to the penitentiary or reform school, and one dollar and fifty cents per day for each guard necessary for conveying patients to the hospital for the insane, and in either case such actual traveling expenses.

Not more than one guard shall be allowed for one prisoner, and one additional guard for every two additional prisoners or patients. When conveyance by team is necessary, a team and driver may be employed at a rate of compensation not exceeding five dollars per day, but not less than forty miles per day shall be taken as a day's travel. All bills shall be in writing and fully itemized and verified by oath, and accompanied by the receipt of the warden of the penitentiary or superintendent of the reform school, or of the hospital for the insane for the delivery of such prisoner or patient. Such accounts shall first be approved by the board of county commissioners of the county from which the prisoner or patient is committed, and be entered in the record of their official proceedings, which approval shall be endorsed thereon.

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

Approved March 5, 1901.

TRESPASS.

CHAPTER 197.

[S. B. 48.]

TRESPASS OF ANIMALS.

AN ACT to Amend Section 6153 of the Revised Codes of 1899, Relating to Liability of Owner for Trespass of Animals.

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

§ 1. AMENDMENT.] That section 6153 of the Revised Codes of 1899, be, and the same is hereby amended to read as follows:

§ 6153. LIABILITY OF OWNER FOR.] Any person owning or having in his charge or possession any horses, mules, cattle, goats, sheep or swine, or any such animals, which shall trespass upon the lands of another, whether fenced or not fenced, shall be liable to the party injured for all damages sustained by him by reason of such trespassing, to be recovered in a civil action in the county in which such damages occurred, and the proceedings shall be the same in all respects as in other civil actions except as herein modified; provided, that no property shall be exempt from execution issued upon judgment obtained under this chapter except absolute exemptions; and provided, further, that the party claiming damages under the provisions of this chapter shall bring an action to recover the same within sixty days after the infliction of such damages.

Approved March 5, 1901.

TWINE PLANT.

CHAPTER 198.

[S. B. 41.]

TWINE AND CORDAGE PLANT.

AN ACT to Amend Section 8567 of the Revised Codes, 1889, Relating to Product of the Plant, How Disposed of.

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

§ 1. AMENDMENT.] That section 8567 of the Revised Codes of 1899 be amended to read as follows:

§ 8567. PRODUCT OF THE PLANT, HOW DISPOSED OF.] The product of said twine and cordage plant shall be disposed of by the board of trustees of said penitentiary, under regulations to be prescribed by them, subject only to the following restrictions, viz.: The board of trustees of said penitentiary, at its regular meeting held in the month of February in each year, shall fix prices at which the product of the plant shall be sold during that season, such prices to be based on the cost of the product and the demand for it; prices for carload lots may, in their discretion, be fixed at not more than one-half cent per pound under prices for smaller lots; the product shall be sold only to those living in the state and intending and agreeing to use it or sell it for use in the state; the price of the product of the plant so established at the February meeting of the board of trustees shall continue to be the price for the season, unless it shall become evident to the board that the price so established is such that it will prevent the sale of the product, or such that the state will not receive a fair price, based on the market value of like product, in which cases a change in price can be made at any regular meeting of said board thereafter held.

§ 2. EMERGENCY.] An emergency exists in that it is of great importance that this amendment shall be in effect for the present season; therefore, this act shall be in force from and after its passage and approval.

Approved February 2, 1901.

CHAPTER 199.

[H. B. 145.]

AN ACT Entitled an Act Authorizing the Board of Trustees of the State Penitentiary to Issue Bonds to Obtain Funds for the Operation of the Twine and Cordage Factory Thereat, and Providing for the Sale and Redemption of the Same.

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

§ 1. BONDS. PENITENTIARY BOARD TO ISSUE.] The board of trustees of the state penitentiary are hereby authorized, empowered and directed to issue bonds for the sum of \$210,000 for the purposes hereinafter stated; said bonds shall be in denominations of \$1,000 each, be payable one-half in ten and the other half in twenty years from the date thereof, and shall bear interest at a rate not exceeding 5 per cent per annum, payable semi-annually on the first days of January and July in each year, with coupons attached for each interest payment, which may be made payable anywhere in the United States; said bonds shall be executed by the president and secretary of said board, under the seal of said penitentiary, and when executed shall be delivered to the state treasurer.

§ 2. BONDS. STATE TREASURER TO SELL. PROCEEDS OF.] The state treasurer shall sell such bonds at the earliest date practicable after the receipt thereof, except those, the proceeds of which are to be used in paying off the certificates of indebtedness hereinafter referred to, which shall not be sold until the said certificates of indebtedness are due or can be paid off before maturity, and dispose of the proceeds of such sales as follows: \$75,000, or such part thereof as may be necessary, in paying off at their maturity, or sooner if possible, the certificates of indebtedness provided for and issued under the authority contained in chapter 189 of the laws of 1899, which become due and payable on or before the first day of November, 1902, and the balance of said proceeds shall be placed to the credit of the "Operating Fund," created in and by chapter 163 of the laws of 1899, to be paid out as in said act provided, and the moneys mentioned and referred to are hereby appropriated for the purposes above set forth.

§ 3. BONDS. WHAT SECURITY FOR.] The twine and cordage factory at the state penitentiary, with all machinery therein and everything appurtenant thereto, and all moneys, credits, materials and manufactured product of every name and nature, is hereby pledged as a security for the payment of the said bonds, and the same are hereby created a lien thereon.

§ 4. FISCAL YEAR.] The fiscal year for all purposes connected with the said twine and cordage factory shall begin and end the same as the calendar year, and the state board of audit shall, at the end of each fiscal year make, or cause to be made, an inventory and appraise-

ment in triplicate, of all moneys, credits, materials, manufactured product and all other articles which are properly a credit to the "Operating Fund" above referred to, one copy of which shall be filed in the office of the governor, one copy in the office of the state treasurer and the other in the office of the warden of the penitentiary, and whenever such inventory and appraisal shall show an excess over the sum of \$210,000, the state treasurer shall take from said "Operating Fund" an amount equal to such excess and place the same in a sinking fund which is hereby created for the payment of such bonds at maturity and the interest on the same as it shall become due.

§ 5. BONDS. INTEREST ON. HOW PAID.] The interest on the said bonds as it shall become due shall be paid by the state treasurer out of the sinking fund provided for in the last section; provided, however, that whenever there shall not be moneys available in said fund to pay the accrued interest on said bonds, it shall be the duty of the state treasurer to pay the interest out of the bond interest fund, and there is hereby appropriated out of such fund a sum sufficient to pay the same.

§ 6. EMERGENCY.] An emergency exists in this that the money provided by this act is urgently needed to keep the twine factory in operation, and therefore this act shall be in force from and after its passage and approval.

Approved March 5, 1901.

CHAPTER 200.

[S. B. 139.]

MAKING THE STATE A PREFERRED CREDITOR.

AN ACT Making the State of North Dakota a Preferred Creditor in the Case of Sales of Binding Twine Upon Time and in the Case of Other Contracts With the State.

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

§ 1. AMENDMENT. BINDING TWINE. STATE A PREFERRED CREDITOR IN SALE OF.] The state of North Dakota is hereby made a preferred creditor in all cases of the sale on credit of the products of the twine and cordage plant at the penitentiary, and is also hereby made a preferred creditor in all cases of payments due to the state on any and all other contracts.

§ 2. EMERGENCY.] There being no law now in force making the state of North Dakota a preferred creditor, an emergency exists, therefore this act shall be in force from and after its passage and approval.

Approved March 5, 1901.

TITLE TO REAL ESTATE.

CHAPTER 201.

[S. B. 116.]

TITLE TO OR BOUNDARY OF REAL ESTATE.

AN ACT to Amend Section 6670 of the Revised Codes of 1899, and to Repeal Section 6671 of the Revised Codes of 1899.

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

§ 1. That section 6670, Revised Codes of 1899, be, and the same is hereby amended to read as follows:

§ 6670. TITLE TO REAL ESTATE.] A question of title to, or boundary of, real property cannot be determined in a justice's court, and when such question arises upon a material issue joined as prescribed in the preceding section, or when such question arises by controversy in the evidence as to a fact material to the determination of the issues in the action, the justice must discontinue the trial and forthwith certify and transmit to the district court of his county all the pleadings and papers filed with him in such action; for which transcript the justice shall receive one dollar to be paid by the plaintiff. Such transcript shall be filed in the district court at the cost of plaintiff; and thereupon the district court shall have the same jurisdiction over such action as if it had been originally commenced therein.

§ 2. TRIED IN DISTRICT COURT.] Such action shall be forthwith entered on the calendar of the district court and shall, unless continued for cause, stand for trial at the next regular term of said court; provided, however, that the transcript is filed in the district court during a term thereof such action shall, unless continued for cause, stand for trial at such current term. No notice of trial or note of issue shall be required of either party.

§ 3. REPEAL.] Section 6671, Revised Codes of 1899, and all other acts or parts of acts inconsistent with the provisions of this act, are hereby repealed.

Approved March 13, 1901.

TOWNSHIPS.

CHAPTER 202.

[H. B. 223.]

TOWNSHIP TREASURERS.

AN ACT to Amend Section 2611 of the Revised Codes of the State of North Dakota of 1899, Relating to Duties and Salaries of Township Treasurers.

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

§ 1. AMENDMENT.] That section 2611, of the Revised Codes of North Dakota, be amended so as to read as follows:

§ 2611. TREASURER TO DRAW MONEYS FROM THE COUNTY.] The township treasurer shall, from time to time, draw from the county treasury such moneys as have been received by the county treasurer for the use of his township and on receipt of such moneys shall deliver proper vouchers therefor. Each township treasurer shall be allowed and entitled to retain two per cent of all moneys paid out of the township treasury, for receiving, safely keeping, and paying over the same according to law.

Approved March 12, 1901.

CHAPTER 203.

[S. B. 218.]

TOWNSHIP MEETINGS.

AN ACT to Amend Section 2540 of the Revised Codes of North Dakota, Relating to the Times of Holding Annual Township Meetings.

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

§ 1. AMENDMENT.] That section 2540 of the Revised Codes be amended so as to read as follows:

§ 2540. ANNUAL MEETING, WHEN HELD.] The citizens of the several townships of this state, qualified to vote at general elections, shall annually assemble and hold township meetings in their respective townships, on the third Tuesday in March at such place in each town-

ship as the electors thereof at their annual township meetings from time to time appoint; and notice of the time and place of holding such meetings shall be given by the township clerk, by posting up written or printed notices in three of the most public places in such township at least ten days prior to such meetings; provided, that before any change of place of holding meetings is made, notice of such contemplated change may be given by any member of the township board to the township clerk, who shall in his regularly printed or written notices as above provided, incorporate the special notice of the contemplated change of place of holding such meetings.

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

Approved March 6, 1901.

CHAPTER 204.

[H. B. 163.]

QUALIFICATION OF TOWNSHIP OFFICERS.

AN ACT to Amend Section 2564 of Article 8 of Chapter 31, of the Revised Codes, Relating to the Time Township Officers Shall Qualify.

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

§ 1. That section 2564, of the Revised Codes, be amended so as to read as follows:

§ 2564. OFFICERS TO TAKE OATH.] Each person elected or appointed to the office of supervisor, township clerk, assessor, treasurer, constable or road overseer, shall, within ten days after he is notified of his election or appointment, take and subscribe, before the township clerk or justice of the peace, the oath prescribed in section 211 of the constitution. Such oath shall be administered without fee and certified by the officer by whom it is taken, with the date of taking the same.

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

Approved March 12, 1901.

CHAPTER 205.

[H. B. 77.]

MEETINGS OF TOWNSHIP BOARD OF SUPERVISORS.

AN ACT to Amend Chapter 160 of the Session Laws of 1899, Being Section 2591 of the Revised Codes of 1899, Relating to the Meetings of Township Board of Supervisors.

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

§ 1. AMENDMENT.] That chapter 160 of the session laws of 1899, being section 2591, of the Revised Codes of 1899, be amended so as to read as follows:

§ 2591. REGULAR MEETINGS.] The township board of supervisors shall hold regular meetings on the Tuesday next preceding the annual town meeting, on the first Tuesday in March, on the second Monday in June, and the last Tuesday in October of each year.

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

§ 3. EMERGENCY.] Whereas, an emergency exists that an election will be held before July 1st, this act shall take effect and be in force from and after its passage and approval.

Approved March 4, 1901.

UNLAWFUL OBLIGATIONS.

CHAPTER 206.

[H. B. 139.]

UNLAWFUL OBLIGATIONS.

AN ACT to Amend Section 7671 of the Revised Codes of 1899, Relating to Unlawful Obligations.

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

§ 1. That section 7671 of the Revised Codes of the state of North Dakota be amended to read as follows:

§ 7671. OBLIGATION IN WRITING. SIGNED ACROSS FACE.] Every person who takes any obligation in writing for any lightning rod or any of its attachments, or for any patent right, or right claimed to be a patent right, or for which any stallion or jackass shall form the whole or any part of the consideration, shall before it is signed by the maker stamp or write in red ink across the face of such written obligation in plain, legible writing, or print, the words "given for a lightning rod," or "given for a patent right," or "given for a stallion," or "given for a jackass," as the case may require. Such obligation so stamped shall not be negotiable and shall be subject to defenses in the hands of every owner or holder thereof. Any person who shall violate the provisions of this section is guilty of a misdemeanor, and upon conviction thereof is punishable by a fine of not less than two hundred and fifty and not exceeding one thousand dollars, or by imprisonment in the county jail not more than one year, or by both such fine and imprisonment, and shall be liable in a civil action to the party injured for all damages sustained by him.

Approved March 12, 1901.

VETERINARIAN DISTRICTS.

CHAPTER 207.

[H. B. 57.]

VETERINARIAN DISTRICTS.

AN ACT to Amend Section 1596 of the Revised Codes of North Dakota, 1899, the Same Being Section 1596 of the Revised Codes of 1895, Relating to Veterinarian Districts.

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

§ 1. AMENDMENT.] That section 1596 of the Revised Codes of North Dakota, 1899, the same being section 1596 of the Revised Codes of 1895, be amended and reenacted so as to read as follows:

§ 1596. DISTRICTS DEFINED.] District number one shall consist of the first judicial district.

District number two shall consist of the counties of Ramsey, Towner, and Rolette.

District number three shall consist of the third judicial district.

District number four shall consist of the fourth judicial district.

District number five shall consist of the counties of Stutsman, Barnes, LaMoure and Griggs.

District number six shall consist of all the counties of the sixth judicial district lying and being upon the west side of the Missouri river, and that portion of the Sioux Indian reservation lying north of the seventh standard parallel.

District number seven shall consist of the seventh judicial district.

District number eight shall consist of all the counties of the sixth judicial district lying and being upon the east side of the Missouri river, and the county of Logan.

District number nine shall consist of the counties of Bottineau, McHenry, Ward and Williams.

District number ten shall consist of the counties of Benson, Pierce, Foster, Eddy and Wells.

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

§ 3. EMERGENCY.] Whereas, an emergency exists in that the terms of office of the present veterinary surgeons expire on the fifth day of March, 1901, this act should be in force and effect prior to the appointing of the new veterinarians, therefore this act shall take effect and be in force from and after its passage and approval.

Approved February 15, 1901.

VOLUNTEER FIREMEN'S ASSOCIATION.

CHAPTER 208.

[H. B. 55.]

VOLUNTEER FIREMEN'S ASSOCIATION.

AN ACT to Amend Sections 2464 and 2465 of the Revised Codes of 1899, Relating to Volunteer Firemen's Association.

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

§ 1. AMENDMENT.] Section 2464 of the Revised Codes is amended to read as follows:

§ 2464. STATE AUDITOR TO ISSUE WARRANTS.] The state auditor on the first day of June thereafter shall issue and deliver to the treasurer of such city, town or village, having an organized fire department entitled to the benefits of this article, his warrant upon the state treasurer for an amount equal to two per cent of the premiums received upon policies issued on property in any city, town or village, which warrants shall be numbered consecutively, and shall each specify the date of its issuance and to whom payable, and such warrants shall be paid by the state treasurer to the treasurer of such city, town or village, upon presentation thereof, and when so received by said treasurer the same shall be paid over to the treasurer of each separate organized fire company, or companies, in equal proportion, who are members in good standing in the North Dakota Firemen's association, and having a membership of at least fifteen members for a period of eight months prior to the date of the certificate of the clerk, as provided in section 2462, and having the management of at least one steam, hand or fire engine, hook and ladder truck or hose cart, upon the written order of such company or companies, approved by the city council, trustees or other governing body of such city, town or village; provided, that in cities, towns and villages having a paid fire department, the amount so received by the city, town or village treasurer shall be placed in a fund to be disbursed by the city council, trustees, or other governing body of such city, town or village in maintaining such fire department.

§ 2465. QUALIFICATIONS OF FIRE DEPARTMENT AND COMPANIES.] No city, town or village having one or more organized fire companies therein, shall be entitled to any of the benefits arising from this article, unless the fire department or companies shall have been in actual existence eight months prior to the filing of the certificate required by section 2426, and unless such fire department or company shall have

had for such period, as a part of its equipments, at least one steam, hand or other fire engine, truck or hose cart, with a membership of at least fifteen persons for said period of eight months.

§ 2. SECRETARY TO NOTIFY TREASURER.] It shall be the duty of the secretary of the North Dakota Firemen's association to notify the treasurer of each city, town or village, entitled to the benefits of this article, on or before the first day of June each year, of the name of the treasurer of each department or separate organized company in good standing in the North Dakota Firemen's association.

Approved March 8, 1901.

VOUCHERS AND WARRANTS.

CHAPTER 209.

[S. B. 128.]

VOUCHERS TO BE NUMBERED.

AN ACT to Amend Section 338d of the Revised Codes of 1899, Relating to Vouchers Filed to be Consecutively Numbered and Paid.

§ 1. AMENDMENT.] That section 338d of the Revised Codes, 1899, be amended to read as follows:

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

§ 338d. VOUCHERS AND WARRANTS. HOW NUMBERED AND PAID.] All vouchers which shall be presented to the state auditor for any bills, claims or accounts against any funds in the treasury of this state, shall be numbered consecutively against such fund by the state auditor, in the order in which they shall be presented and filed, and a record shall be kept of the same. All warrants, orders or certificates which shall be issued by the state auditor, for or upon any such vouchers, and against any fund in the treasury of this state, shall be issued consecutively and in the same order that the state auditor shall have received the same. Each voucher shall show the postoffice address of the person in whose favor said warrant shall be made, and the state auditor shall mail said warrant to the address as given as soon as issued.

Approved March 5, 1901.

CHAPTER 210.

[S. B. 37.]

VOUCHERS AND WARRANTS.

AN ACT to Amend Section 338d of the Revised Codes of 1899, Relating to Vouchers and Warrants.

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

§ 1. VOUCHERS AND WARRANTS. HOW NUMBERED.] All vouchers which shall be presented to the state auditor for any bills, claims or accounts against any funds in the treasury of this state, shall be numbered consecutively against such fund by the state auditor, in the order in which they shall be presented and filed, and a record shall be kept of the same. All warrants, orders or certificates, which shall be issued by the state auditor, for or upon any such vouchers, and against any fund in the treasury of this state, shall be issued consecutively and in the same order that the state auditor shall have received the same, except when the appropriations made to any fund shall have been exhausted; also for state officers' salary and clerk hire. Each voucher shall show the postoffice address of the person in whose favor said warrant shall be made, and the state auditor shall mail said warrant to the address as given as soon as issued; provided, that none of the provisions of this section shall apply to moneys in the treasury appropriated for the maintenance of the state capitol. Provided, further, that the salary and expenses of the legislative assembly shall not be subject to the provisions of this section.

§ 2. EMERGENCY.] Whereas, an emergency exists, in that there is no provision in this law for the immediate payment of the expenses of the legislative assembly, therefore, this act shall take effect and be in force on and after its passage and approval.

Approved January 25, 1901.

CHAPTER 211.

[S. B. 57.]

PROVIDING FOR DRAWING OF WARRANTS BY STATE AUDITOR ON STATE TREASURER.

AN ACT to Provide for the Drawing of Warrants by the State Auditor Upon the State Treasurer.

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

§ 1. CLAIMS AGAINST STATE. AUDITOR TO DRAW WARRANTS ON STATE TREASURER. HOW.] It shall be the duty of the state auditor to

draw warrants on the state treasurer for the payment of money directed by law to be paid out of the treasury; which warrants shall be numbered consecutively in the order in which they are drawn; but no warrant shall be drawn unless authorized by law, nor unless there are funds in the treasury applicable to the payment thereof to meet the same; provided, that in case of emergency, and in anticipation of taxes already levied and in process of collection, the auditor, with the advice and consent of the governor and treasurer, may issue warrants in payment of duly authorized vouchers. Every warrant must be drawn upon the fund out of which it is payable and specify for what it is drawn and when the liability accrued.

§ 2. EMERGENCY.] Whereas, an emergency exists in that there is no adequate provision for providing for temporary deficiencies in the state treasury, therefore this act shall be in force and take effect upon its passage and approval.

Approved February 15, 1901.

WATER RIGHTS.

CHAPTER 213.

[H. B. 125.]

WATER RIGHTS.

AN ACT Regulating Water Rights for Irrigation Purposes.

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

§ 1. WATER RIGHTS ACQUIRED. HOW.] The right to the use of running water, flowing in the rivers, streams, canyons and ravines of this state, may be acquired by appropriation.

§ 2. MUST BE FOR USEFUL PURPOSES. RIGHT LEASES.] The appropriation must be for some useful or beneficial purpose, and when the appropriator, or his successor in interest, abandons and ceases to use the water for such purpose the right ceases; but questions of abandonment shall be questions of fact, and shall be determined as other questions of fact.

§ 3. MAY CHANGE PLACE OF DIVERSION AND USE.] The person entitled to the use of water may change the place of diversion, if others are not thereby injured, and may extend the ditch, flume, pipe or aqueduct, by which the diversion is made, to any place other than where the first use was made, and may use the water for other purposes than that for which it was originally appropriated.

§ 4. MAY TURN INTO ANOTHER CHANNEL.] The water appropriated may be turned into the channel of another stream and mingled with its waters, and then be reclaimed; but, in reclaiming it, water already appropriated by another must not be diminished in quantity or deteriorated in quality.

§ 5. MUST TURN BACK SURPLUS WATER.] In all cases where, by virtue of prior appropriation, any person may have diverted all the water of any stream, or to such an extent that there shall not be an amount sufficient left therein for those having a subsequent right to the waters of such stream, and there shall at any time be a surplus of water so diverted, over and above what is actually used by the prior appropriator, such person shall be required to turn and to cause to flow back into the stream such surplus water, and upon failure so to do within five days, after demand being made upon him in writing by any person having a right to the use of such surplus water, the person so diverting the same shall be liable to the person aggrieved thereby in the sum of twenty-five dollars for each and every day such water shall be withheld after such notice; to be recovered by a civil action by any person having a right to the use of such surplus water.

§ 6. FIRST APPROPRIATION FIRST RIGHT.] As between appropriators the one first in time is first in right.

§ 7. MUST POST NOTICE.] Any person hereafter desiring to appropriate water must post a notice in writing in a conspicuous place at the point of intended diversion, stating therein:

First. The number of inches claimed measured as hereinafter provided.

Second. The purpose for which it is claimed and place of intended use.

Third. The means of diversion, with size of flume, ditch, pipe, or aqueduct by which he intends to divert it.

Fourth. The date of appropriation.

Fifth. The name of the appropriator. Within twenty days after the date of appropriation the appropriator shall file with the register of deeds of the county in which such appropriation is made, a notice of appropriation, which in addition to the fact, required to be stated in the posted notice, as hereinbefore prescribed, shall contain the name of the stream from which the diversion is made, if such stream have a name, and if it have not, such a description of the stream as will identify it, and an accurate description of the point of diversion on such stream, with reference to some natural object or permanent monument. The notice shall be verified by the affidavit of the appropriator, or some one in his behalf, which affidavit must state that the matters and facts contained in the notice are true.

§ 8. WITHIN FORTY DAYS MUST MAKE IMPROVEMENTS.] Within forty days after posting such notice the appropriator must proceed to prosecute the excavation or construction of the work by which the water appropriated is to be diverted, and must prosecute the same with reasonable diligence to completion. If the ditch or flume, when con-

structed, is inadequate to convey the amount of water claimed in the notice aforesaid, the excess claimed above the capacity of the ditch or flume shall be subject to appropriation by any other person, in accordance with the provisions of this title.

§ 9. FAILURE TO COMPLY FORFEITS RIGHTS.] A failure to comply with the provisions of this title deprives the appropriator of the right to the use of water, as against a subsequent claimant, who complies therewith, but by complying with the provisions of this title, the right to the use of the water shall relate back to the date of posting the notice.

§ 10. FILE DECLARATION IN SIX MONTHS.] Persons who have heretofore acquired rights to the use of water shall, within six months after the publication of this title, file in the office of the register of deeds of the county in which the water right is situated, a declaration in writing, except notice be already given of record as acquired by this title, or a declaration in writing be already filed, as required by this section, containing the same facts as required in the notice provided for record in section 7 of this title and verified as required in said last mentioned section, in cases of notice of appropriation of water;

Provided, that a failure to comply with the requirements of this section shall in no wise work a forfeiture of such heretofore acquired rights, or prevent any such claimant from establishing such rights in the courts.

§ 11. RECORD SUFFICIENT EVIDENCE.] The record provided for in sections 7 and 10 of this act when duly made, shall be taken and received in all courts of this state as prima facie evidence of the statements therein contained.

§ 12. ALL PARTIES INTERESTED PARTY TO ACTION SEVERALLY AND JOINTLY.] In any action hereafter commenced for the protection of rights acquired to water under the laws of this state, the plaintiff may make any or all persons who have diverted water from the same stream, or source, parties to such action; and the court may in one judgment settle the relative priorities and rights of all the parties to such action. Where damages are claimed for the wrongful diversion of water in any such action, the same may be assessed and apportioned by the jury in their verdict, and judgment thereon may be entered for or against one or more of several plaintiffs, or for or against one of more of several defendants, and may determine the ultimate rights of the parties between themselves.

In any action concerning joint water rights, or joint rights in water ditches, unless partition of the same is asked by parties to the action, the court shall hear and determine such controversy as if the same were several as well as joint.

§ 13. REGISTER OF DEEDS KEEP RECORDS.] The register of deeds must keep a well-bound book, in which he must record the notices and declarations provided for in this act, and he shall be entitled to have and receive the same fees as are now or hereafter may be allowed by law for recording instruments entitled to be recorded.

§ 14. MANNER OF MEASURING WATER.] The measurement of water appropriated under this act shall be conducted in the following manner: A box or flume shall be constructed with a headgate placed so as to leave an opening of six inches between the bottom of the box, or flume, and lower edge of headgate, with a slide to enter at one side of, and of sufficient width to close the opening left by the headgate, by means of which the dimensions of the opening are to be adjusted. The box or flume shall be placed level, and so arranged that the stream in passing through the aperture is not obstructed by back water, or an eddy below the gate; but before entering the opening to be measured, the stream shall be brought to an eddy, and shall stand three inches on the headgate and above the top of the opening. The number of square inches contained in the opening shall be the measure of inches of water.

§ 15. RIGHT TO CONDUCT WATER. WHAT IT INCLUDES.] The right to conduct water from or over the land of another, for any beneficial use, includes the right to raise any water by means of dams, reservoirs or embankments, to a sufficient height to make the same available for the use intended, and the right to any and all land necessary therefor, may be acquired upon payment of just compensation, in the manner provided by law for the taking of private property for public use; provided, further, that if it is necessary to conduct the water across the right of way of any railroad, it shall be the duty of the owners of the ditch, or flume, to give thirty days' notice in writing to the owner or owners of such railway of their intention to construct a ditch or flume across the right of way of such railroad, and the point at which the said ditch or flume will cross the railroad; also the time when the construction of said ditch or flume will be made. If the owner or owners of such railroad, or their agents, fail to appear and attend at the time and place fixed in said notice, it shall be lawful for the owner or owners of the said ditch or flume, to construct the same across the right of way of such railroad, without further notice to said owner or owners of the railroad.

§ 16. MUST REPAIR ALL DAMAGES.] Any person who digs and constructs ditches, dykes, flumes or canals, over or across any public roads or highways, or who uses the waters of such ditches, dykes, flumes or canals, is required to keep the same in good repair at such crossings or other places where the water from any such ditches, dykes, flumes or canals may flow over, or in anywise injure any roads or highways either by bridging or otherwise.

§ 17. PENALTY FOR OFFENDING.] Any person offending against the preceding section, on conviction thereof, shall pay, for every offense, a fine of not less than twenty-five dollars, nor more than one hundred dollars, with costs of prosecution. One-half of the fine shall be paid into the county treasury for the benefit of the common schools of the county in which the offense was committed, and the other half shall be paid to the person informing the nearest magistrate that such offense has been committed, who shall issue a warrant upon the proper complaint being made.

§ 18. REGULATING SALE OF WATER.] Any person having the right to use, sell, or dispose of water, and engaged in using, selling or disposing of the same, who has a surplus of water not used, or sold, or any person having a surplus of water, and the right to sell and dispose of the same, is required, upon the payment or tender to the person entitled thereto, an amount equal to the usual and customary rates per inch, to convey and deliver to the person such surplus of unsold water, or so much thereof for which said payment or tender shall have been made, and shall continue so to convey and deliver the same weekly so long as said surplus of unused or unsold water exists, and said payment or tender be made as aforesaid.

§ 19. RIGHT TO USE WATER. HOW ACQUIRED.] Any person desiring to avail himself of the provisions of the preceding section must, at his own cost and expense, construct or dig the necessary flumes or ditches to receive and convey the surplus water so desired by him, and pay or tender to the person having the right to the use, sale or disposal thereof, an amount equal to the necessary cost and expense of tapping any gulch, stream, reservoir, ditch, flume or aqueduct, and putting in gates, guages or other proper and necessary appliances useful and customary in such cases, and until the same shall be so done, the delivery of said surplus water shall not be required as provided in the preceding section.

§ 20. RIGHTS OF CONSUMERS.] Any person constructing the necessary ditches, aqueducts or flumes, and making the payments or tenders hereinbefore provided, is entitled to the use of so much of the said surplus water as said ditches, flumes or aqueducts have the capacity to carry, and for which payment or tender is made, and may institute and maintain any appropriate action at law or in equity for the enforcement of such rights or recovery of damages arising from a failure to deliver or wrongful diversion of the same.

§ 21. NO RIGHT TO SELL AFTER USING.] Nothing in the three preceding sections shall be so construed as to give the person acquiring the right to the use of water as therein provided, the right to sell or dispose of the same after being so used by him, or prevent the original owner or proprietor from retaking, selling and disposing of the same in the usual and customary manner, after it is so used as aforesaid.

§ 22. DAMS AND RESERVOIRS. HOW CONSTRUCTED.] No person shall hereafter fill, or procure to be filled, with water, any dam or reservoir which is not so thoroughly and substantially constructed as that it will safely and securely hold the water to be turned therein.

§ 23. No person shall hereafter construct, or cause to be constructed, on a stream, any dam or reservoir to accumulate the waters thereof, except in a thorough, secure and substantial manner.

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

§ 25. EMERGENCY.] Whereas, an emergency exists in this, there is no complete law in force in this state regulating water rights for the purpose of irrigation, now, therefore, this act shall take effect from and after its passage and approval.

Approved March 8, 1901.

WEIGHTS AND MEASURES.

CHAPTER 213.

[H. B. 153.]

WEIGHTS AND MEASURES.

AN ACT to Amend Section 1722, of the Political Code of the Revised Codes of 1899, Relating to Weights and Measures.

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

§ 1. AMENDMENT.] That section 1722, of the Political Code of the Revised Codes of 1899, be amended so as to read as follows:

§ 1722. BUSHEL CONSISTS OF HOW MANY POUNDS.] A bushel of each of the articles enumerated in this section shall consist of the number of pounds avoirdupois respectively affixed to each:

- Barley, forty-eight pounds.
 - Bears, sixty pounds.
 - Bran, twenty pounds.
 - Buckwheat, forty-two pounds.
 - Beets, sixty pounds.
 - Broom corn seed, thirty pounds.
 - Corn, shelled, fifty-six pounds.
 - Corn, in the ear, seventy pounds.
 - Clover seed, sixty pounds.
 - Coal, stone, eighty pounds.
 - Flax seed, fifty-six pounds.
 - Lime, eighty pounds.
 - Oats, thirty-two pounds.
 - Onions, fifty-two pounds.
 - Potatoes, Irish, sixty pounds.
 - Potatoes, sweet, forty-six pounds.
 - Peas, sixty pounds.
 - Rye, fifty-six pounds.
 - Salt, eighty pounds.
 - Turnips, sixty pounds.
 - Timothy seed, forty-two pounds.
 - Wheat, sixty pounds.
 - Speltz, forty-eight pounds.
 - Millet, fifty pounds.
- Approved March 8, 1901.

WITNESSES.

CHAPTER 214.

[S. B. 233.]

WITNESSES.

AN ACT to Amend Section 5658, of the Revised Codes of 1899, Relating to Attendance of Witnesses for Examination.

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

§ 1. AMENDMENT.] That section 5658, of the Revised Codes of 1899, be amended so as to read as follows:

§ 5658. WITNESSES NOT COMPELLED TO ATTEND OUT OF COUNTY.] A witness shall not be obliged to attend for examination, on the trial of a civil action in the district court, except in the judicial district of his residence, nor before any other officer, magistrate, or tribunal, except in the county of his residence, nor to attend to give his deposition out of the county where he resides, or where he may be when the subpoena is served upon him.

§ 2. EMERGENCY.] Whereas, an emergency exists in that under the law of this state, a witness cannot be obliged to attend in the district court outside of the county of his residence, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 13, 1901.

WOLVES.

CHAPTER 215.

[H. B. 36.]

WOLF BOUNTY.

AN ACT to Amend Section 1566, of the Political Code of North Dakota, Relating to Bounty for Killing Wolves.

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

§ 1. AMENDMENT.] That section 1566 of the Revised Codes of 1899, of the state of North Dakota, be amended so as to read as follows:

§ 1566. BOUNTY FOR KILLING WOLVES.] The county commissioners of each county shall offer a bounty of \$2 for each wolf or coyote killed within the limits of their county.

§ 2. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed. Provided, however, this act shall not conflict with any act providing for any bounty for the destruction of grey or timber wolves.

Approved March 12, 1901.

CHAPTER 216.

[H. B. 14.]

DESTRUCTION OF TIMBER WOLVES.

AN ACT Authorizing Board of County Commissioners to Offer Reward for the Destruction of Buffalo, or Timber Wolves, and Stating the Manner in Which the Skins Shall be Presented to the County Auditor; How to Prevent Fraud and Evidence Required.

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

§ 1. MAY OFFER REWARD.] The board of county commissioners of any county within this state, may offer a reward of a sum, not to exceed twenty dollars, nor less than five dollars, for the destruction of each buffalo or timber wolf killed within their respective counties, and the provisions of sections 1570b, 1570c, and 1570d of the Revised

Codes of 1899, shall apply in every case where the reward is called for under the provisions of this act.

§ 2. EMERGENCY.] Whereas, there is not a sufficient reward for the destruction of buffalo or timber wolves, therefore an emergency exists, and this law shall take effect and be in force from and after its passage and approval.

Approved March 7, 1901.

PROPOSED AMENDMENTS TO CONSTITUTION.

CONCURRENT RESOLUTION.

Be it Resolved by the Senate, the House of Representatives Concurring

AMENDMENT TO CONSTITUTION.

That the following amendment to the constitution of the State of North Dakota be agreed to by the Seventh legislative assembly of the State of North Dakota, and by it referred to the Eighth legislative assembly of said state, for approval, to be by said last mentioned legislative assembly submitted to the qualified electors of the state, for approval or rejection, in accordance with the provisions of section 202 of the constitution of the State of North Dakota:

AMENDMENT.

That subdivision 8, of section 215, of the constitution of the State of North Dakota be amended so as to read as follows:

Subdivision 8. A state hospital for the insane at the City of Jamestown, in the county of Stutsman. And the legislative assembly shall appropriate twenty thousand acres of the grant of lands made by the act of Congress aforesaid for "Other Educational and Charitable Institutions" to the benefit and for the endowment of said institution, and there shall be located at or near the City of Grafton, in the county of Walsh, an institution for the feeble minded, on the grounds purchased by the Secretary of the Interior for a penitentiary building.

[H. B. 113.]

CONCURRENT RESOLUTION.

Be it Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring:

That the following amendment to the constitution of the State of North Dakota be adopted by the Seventh legislative assembly of the State of North Dakota, and by it submitted to the eighth legislative assembly of said state for approval.

AMENDMENT TO CONSTITUTION.

That section 176 of the constitution of the State of North Dakota be amended, by adding thereto and making part thereof, the following clause:

The legislative assembly may further provide that grain grown within the state and held therein in elevators, warehouses and granaries may be taxed at a fixed rate.

[H. B. 16.]

CONCURRENT RESOLUTION.

Be it Resolved by the House of Representatives, and the Senate Concurring:

PROPOSED CONSTITUTIONAL AMENDMENT.

That the following amendment to the constitution of the State of North Dakota, be adopted by the Seventh legislative assembly of the State of North Dakota, and submitted for approval to the eighth legislative assembly, to-wit:

AMENDMENT.

Subdivision five, section two hundred and fifteen (215), of article nineteen (19), of the constitution of the State of North Dakota, is amended so as to read as follows:

Fifth. The school for the deaf and dumb of North Dakota, at the city of Devils Lake, in the county of Ramsey.

[H. B. 157.]

FIXING APPRAISED VALUE OF SCHOOL LANDS.

CONCURRENT RESOLUTION.

Be it Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring:

That the following amendment to the constitution of the State of North Dakota be adopted by the Seventh legislative assembly of the State of North Dakota, and by it submitted to the Eighth legislative assembly of said state for approval, or rejection, in case the congress of the United States amends the Enabling Act to like effect:

AMENDMENT TO CONSTITUTION.

§ 1. Section 158 of the constitution of the state of North Dakota is amended to read as follows:

§ 158. No lands, other than those granted for the use and benefits of the common schools, shall be sold for less than appraised value, and in no case for less than \$5.00 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 and the remaining four-fifths at the option of the purchaser, in not more than 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 situated, 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 specifically 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 remains 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; provided, further, that sections 16 and 36, or any indemnity lands selected in lieu of losses thereof, appropriated for the common schools of the state shall not be sold for less than \$10 per acre.

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