# LAWS

PASSED AT

## THE TENTH SESSION

OF THE

# LEGISLATIVE ASSEMBLY

OF THE

## STATE OF NORTH DAKOTA

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BEGUN AND HELD AT BISMARCK, THE CAPITAL OF SAID STATE
ON TUESDAY, THE EIGHTH DAY OF JANUARY, A. D. 1907,
AND CONCLUDING MARCH EIGHTH, 1907

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*By* ALFRED BLAISDELL
Secretary of State of the State of
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# 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 at the Tenth Session of the Legislative Assembly of the State of North Dakota, beginning January 8, 1907, and terminating March 8, 1907, 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 first day of June, 1907.

ALFRED BLAISDELL,
Secretary of State.

[SEAL]

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# THE LAWS

## ABSTRACTERS

### CHAPTER 1.

[S. B. No. 289—Plain]

BONDS OF ABSTRACTERS OF TITLE.

AN ACT to Amend Section 2231 of the Revised Codes of North Dakota for 1905, Relating to Abstracters of Title, Bonds to be Given.

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

§ 1. AMENDMENT.] Section 2231 of the revised codes of North Dakota for 1905, is amended and re-enacted to read as follows:

§ 2231. ABSTRACTERS TO GIVE BONDS.] It shall be unlawful for any person, firm or corporation to engage or continue in the business of making or compiling abstracts of title to real estate in this state or to demand and receive pay for the same without first having for use in such business a complete set of abstract books, or records of all instruments filed or of record in the office of the register of deeds in and for the county in which such business is to be conducted, or in good faith engaged in the preparation for not less than three months of such books or records and without first filing in the office of the county auditor of the county in which such business is to be conducted, a surety bond to the county in the penal sum of ten thousand dollars for each and every ten thousand inhabitants, or major part of that number residing within such county, as shown by the official federal or state census last taken prior to the filing of such surety bond, to be approved as to form and security by the board of county commissioners of such county, conditioned for the payment by such abstracters of any and all damages that may be sustained by or accrue to any person by reason or on account of any error, deficiency or mistake in any abstract or certificate of title or continuation of an abstract of title made and issued by such person, firm or corporation; provided, that in counties containing less than a major part of ten thousand inhabitants, the bond herein required shall be for not less than five thousand dollars.

§ 2. EMERGENCY.] Whereas, in the opinion of the legislative assembly an emergency exists, in that all purchasers of real estate titles are not equally protected against error and deficiencies in abstracts of title, therefore this act shall be in full force and effect from and after its passage and approval.

Approved March 19, 1907.

# ABSTRACTS

## CHAPTER 2.

[S. B. No. 55—Johnson of McLean]

### ABSTRACTS OF TITLE.

AN ACT to Provide for the Making of Certain Abstracts of Title Prima Facie Evidence of Title and to Provide for the Recording of the Same.

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

§ 1. ABSTRACT PRIMA FACIE EVIDENCE OF TITLE.] In any and all cases where the records of deeds, mortgages, liens, judgments and instruments of like nature in any county have been lost or destroyed, the abstract of a regular bonded abstractor or abstractors of said county in which the same are lost or destroyed shall be deemed prima facie evidence of title and any regularly certified abstract may be recorded as are other instruments.

§ 2. EMERGENCY.] Whereas, an emergency exists in that the records of Mercer county have been destroyed by fire, therefore this act should take effect and be in force from and after its passage and approval.

Approved March 19, 1907.

# ABSTRACTS AND BRIEFS

## CHAPTER 3.

[S. B. No. 279—Purcell]

### TYPEWRITTEN ABSTRACTS AND BRIEFS.

AN ACT Authorizing the Use of Typewritten Abstracts and Briefs in Certain Criminal Cases on Appeal to the Supreme Court.

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

§ 1. PERMITTED, WHEN.] Upon appeal to the supreme court in criminal cases, where it shall be made to appear to the supreme court by the affidavit of the appellant that he has not the means with which to pay for printing the abstracts and briefs, he shall be permitted to file and use on such appeal typewritten abstracts

and briefs, which typewritten abstracts and briefs shall be prepared in accordance with the rules of the supreme court.

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

§ 3. EMERGENCY.] Whereas, there is now no provision of law authorizing the use of typewritten abstracts and briefs on appeals to the supreme court in criminal cases, this act shall take effect and be in force from and after its passage and approval.

Approved March 19, 1907.

# ACTIONS

## CHAPTER 4.

[S. B. No. 29—Purcell]

### EXAMINATION OF ADVERSE PARTY.

AN ACT to Amend Section 7252 of the Revised Codes of 1905, Relating to Examination of an Adverse Party.

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

§ 1. AMENDMENT.] Section 7252 of the revised codes of 1905, relating to the examination of an adverse party, is amended and re-enacted so as to read as follows:

§ 7252. EXAMINATION ADVERSE PARTY.] A party to the record of any civil action or proceeding, or a person for whose immediate benefit such action or proceeding is prosecuted or defended, or the directors, officers, superintendent or managing agents of any corporation which is a party to the record in such action or proceeding, may be examined upon the trial thereof as if under cross-examination at the instance of the adverse party or parties or any of them, and for that purpose may be compelled in the same manner and subject to the same rules for examination as any other witness to testify, but the party calling for such examination shall not be concluded thereby, but may rebut it by counter testimony.

Approved February 19, 1907.

## CHAPTER 5.

[S. B. No. 271—Purcell]

### EXAMINATION OF PARTIES.

AN ACT to Amend Section 7246 of the Revised Codes of 1905, Relating to Examination of Parties.

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

§ 1. AMENDMENT.] Section 7246 of the revised codes of North Dakota for 1905 is amended and re-enacted to read as follows:

§ 7246. EXAMINATION BEFORE TRIAL.] The examination instead of being had at the trial as provided in the last section may be had at any time before the trial at the option of the party claiming it before a judge of the court, or by a referee appointed by the judge of the court for that purpose, on a previous notice to the party to be examined and any other adverse party of at least five days, unless for good cause shown the judge orders otherwise; but the party to be examined shall not be compelled to attend in any other county than that of his residence or where he may be served with a subpena for his attendance. Where a referee shall be so appointed the provisions of article 7 of chapter 11 of the code of civil procedure, revised codes of 1905, shall be applicable thereto, and the referee shall take the testimony either himself or by a stenographer in his presence, which testimony shall be certified to by the referee.

Approved March 19, 1907.

# APPROPRIATIONS

## CHAPTER 6.

[S. B. No. 116—Hanna]

### AGRICULTURAL COLLEGE.

AN ACT Appropriating Money for Buildings, for Repairs and for Making Improvements at the North Dakota Agricultural College and Experimental Station at Fargo.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the

sum of thirty-seven thousand dollars for buildings, repairs and improvements for the North Dakota agricultural college and experimental station, as follows:

| | |
|---|---|
| For construction and equipment of greenhouse for horticultural department | $ 6,000 |
| For enlargement of drill hall | 6,500 |
| For construction of shed for farm machinery | 2,000 |
| For root cellar and seed house | 10,000 |
| For repair of administration building, for a new roof on Francis hall and for miscellaneous repairs on other buildings, including cement walks | 12,500 |
| Total | $37,000 |

§ 2. EMERGENCY.] An emergency exists in that work on the buildings and repairs provided for in this act should be commenced early next spring, therefore this law shall go into effect and be in force from and after its passage and approval.

Approved March 2, 1907.

## CHAPTER 7.

[S. B. No. 91—Kraabel]

### MAYVILLE NORMAL SCHOOL.

AN ACT Making an Appropriation for Completing the Present Building and for Furniture, Fixtures and Improvements for the State Normal School at Mayville and for the Erection of a Women's Dormitory for Said School.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of the money in the state treasury, not otherwise appropriated, for the state normal school at Mayville, sums of money as follows:

| | |
|---|---|
| To complete the building now erected, including furniture, fixtures and the construction of the boys' bath room | $15,000 |
| For repairs on old building, including new roof | 5,000 |
| For shed for storing coal and necessary trackage | 1,000 |
| For improvement of grounds, including grading, trees, seeding, walks, etc., | 1,000 |
| For equipment of biological, physical and chemical laboratory, with plumbing, furniture and apparatus | 2,500 |
| For purchase of library books | 1,000 |
| For the erection of a women's dormitory | 20,000 |
| Total | $45,500 |

§ 2. EMERGENCY.] Whereas, an emergency exists in that urgent need exists for the immediate use of the above improvements, and there is no money available therefor, this act shall take effect from and after its passage and approval.

Approved March 2, 1907.

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## CHAPTER 8.

[S. B. No. 153—Leutz]

### REFORM SCHOOL.

AN ACT Making Appropriations for the Current and Contingent Expenses of the State Reform School of North Dakota, and for Making Permanent Improvements Thereto.

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

§ 1. APPROPRIATION.] 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 reform school at Mandan:

| | |
|---|---|
| For repairs | $ 800 |
| For library | 200 |
| For building and equipping a manual training building | 11,000 |
| For purchasing land for the use of the school | 5,000 |
| For water supply | 3,500 |
| Total | $20,500 |

Provided, that before any of the money hereby appropriated for the purchase of land is available, the governor of this state shall give his assent thereto.

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

Approved March 2, 1907.

## CHAPTER 9.

[S. B. No. 118—Purcell]

### SCHOOL OF SCIENCE.

AN ACT Making an Appropriation for the Purchase of a Building, Paying Indebtedness on a Machine Shop, Paying Sewer Assessment, Making Repairs on Building, for Furniture and Equipment and for Library, Bookcases and Library Furniture.

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

§ 1. APPROPRIATION.] There is hereby appropriated the following sums of money, or so much thereof as may be necessary, not otherwise appropriated, for the purpose of purchasing the Red River Valley university, making repairs on same, for equipment and furniture, for library, bookcases and library furniture, for payment of indebtedness on machine shop and for payment of sewer assessment on lands of the North Dakota academy of science, located at Wahpeton, North Dakota, as follows:

| | |
|---|---|
| For the purchase of the Red River Valley university property | $17,000 |
| For payment of borrowed money used in building machine shop | 5,100 |
| For sewer assessment of entire property | 5,000 |
| For repairs on building | 2,500 |
| For equipment and furniture | 2,000 |
| For library, bookcases and library furniture | 1,000 |
| Total | $32,600 |

§ 2. EMERGENCY.] Whereas, an emergency exists in this, that the funds above provided for should be available prior to July 1st, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 2, 1907.

## CHAPTER 10.

[S. B. No. 245—LaMoure]

### CAPITOL MAINTENANCE.

AN ACT to Amend Section 393 of the Revised Codes of 1905, 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 and Executive Mansion.

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

§ 1. AMENDMENT.] Section 393 of the revised codes of 1905 is hereby amended to read as follows:

§ 393. POWERS OF BOARD OF TRUSTEES. APPROPRIATION.] The board of trustees of public property is authorized and empowered to provide all necessary furniture, fuel, lights, stationery, 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 executive mansion, and there is hereby annually appropriated out of any money in the state treasury, not otherwise appropriated, the sum of twenty-five 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 state auditing board, and upon approval the state treasurer is hereby directed to pay such warrants from the general fund of the state.

§ 2. EMERGENCY.] Whereas, the board of trustees of public property, by a communication in writing, dated January 15, 1907, recommended the passage of the above appropriation and the sum so asked should be available before July 1, 1907, therefore an emergency exists, and this act shall be in force from and after its passage and approval.

Approved March 2, 1907.

## CHAPTER 11.

[S. B. No. 105—McArthur]

### BUILDING FOR SCHOOL OF FORESTRY.

AN ACT Making an Appropriation for the Erection of a Building and Greenhouse for the School of Forestry, Located at Bottineau, Bottineau County, and for the Proper Furnishing and Equipment of the Same.

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

§ 1. APPROPRIATION.] For the purpose of erecting a suitable building and greenhouse for the school of forestry located at Bottineau, Bottineau county, and for the purpose of furnishing and equipping the same, there is hereby appropriated out of any funds in the state treasury, not otherwise appropriated, the sum of twenty-five thousand dollars.

§ 2. TRUSTEES ERECT BUILDING.] Upon the passage and approval of this act the board of trustees of said school of forestry are authorized and empowered to proceed to the erection of a suitable building or buildings and greenhouse for the school of forestry, and to furnish and equip the same for use.

§ 3. EMERGENCY.] Whereas, an emergency exists, therefore this act shall be in force and take effect from and after its passage and approval.

Approved March 2, 1907.

## CHAPTER 12.

[S. B. No. 88—Little]

### SITE FOR SAKAKAWEA STATUE.

AN ACT to Provide a Site for the Statue of Sakakawea, the Indian Guide of the Lewis and Clark Expedition.

WHEREAS, The women, students and school children of the state, upon the initiative of the Federation of Women's Clubs, have undertaken to erect at a cost of three thousand five hundred dollars a statue of Sakakawea, the Indian woman whose guidance and fidelity contributed largely to the success of the Lewis and Clark expedition and have applied for permission to place said statue when completed upon the grounds of the state capitol; therefore,

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

§ 1. SITE GRANTED.] There is hereby granted a suitable site on the capitol grounds for the erection of said statue, the same to embrace sufficient land to form a proper setting therefor and

to be selected and defined by the capitol commission, which commission is authorized and directed to make such improvements in said site as will properly prepare the same for said statue.

§ 2. APPROPRIATION.] There is hereby appropriated one thousand five hundred dollars for the erection of a foundation and pedestal for said statue when the same is completed, the same to be paid by the treasurer upon the warrant of the capitol commission.

Approved March 2, 1907.

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## CHAPTER 13.

[S. B. No. 132—Young]

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### VALLEY CITY NORMAL.

AN ACT to Provide for the Making of Permanent Improvements at the Valley City State Normal School, to Assist in the Maintenance Thereof, and for Other Purposes, and Making Appropriations Therefor.

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

§ 1. APPROPRIATION.] For making permanent improvements at the Valley City state normal school, to assist in the maintenance thereof, and for other purposes, the following sums of money, or so much thereof as may be necessary, are hereby appropriated from any funds in the state treasury not otherwise appropriated, viz:

| | |
|---|---|
| For new building for assembly room, class rooms and library | $40,000 |
| For deficit in cost of model school, which was temporarily transferred from maintenance fund | 3,313 |
| For furniture | 1,000 |
| For repair of floors | 1,000 |
| For repairs to roof, painting and other repairs | 2,000 |
| For abutting walks, as required by city | 750 |
| For improvement of grounds | 500 |
| For reference books for library | 1,000 |
| To be added to maintenance fund, one-half to be available July 1, 1907, and one-half to be available January 1, 1908 | 8,000 |
| Total | $57,563 |

§ 2. EMERGENCY.] Whereas, some of the sums hereby appropriated should be available before July 1st, therefore an emergency exists and this act shall take effect and be in force from and after its passage and approval.

Approved March 2, 1907.

## CHAPTER 14.

[S. B. No. 17—Little]

### 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.] 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 and for making permanent improvements and additions thereto, as follows:

| | |
|---|---|
| For warden's salary | $ 4,000 |
| For deputy warden's salary | 2,400 |
| For clerk's salary | 1,800 |
| For matron's salary | 800 |
| For chaplains | 500 |
| For guards and employes | 24,000 |
| For maintenance | 30,000 |
| For heating and lighting | 5,000 |
| For repairs and improvements | 2,000 |
| For incidentals | 1,000 |
| For physician and medicines | 2,800 |
| For transportation of discharged inmates, including temporary aid and clothing | 5,000 |
| For clothing | 5,000 |
| For bedding | 1,000 |
| For books and stationery | 500 |
| For water supply | 3,000 |
| For building and equipping a cell house addition | 80,000 |
| For purchase of farm land | 10,000 |
| For addition and improvements to officers' quarters and addition to office | 2,500 |
| Total | $181,300 |

Provided, that before any of the money hereby appropriated for the purchase of land is available, the governor of this state shall give his assent thereto.

§ 2. EMERGENCY.] An emergency exists in this, that there is no provision made for the payment of the expenses of the said penitentiary after March 1, 1907, therefore this act shall take effect from and after its passage and approval.

Approved March 4, 1907.

## CHAPTER 15.

[S. B. No. 246—LaMoure]

### CAPITOL MAINTENANCE DEFICIT.

AN ACT Making an Appropriation to Pay the Deficiency in the Appropriation for the Maintenance of the Capitol for the Years 1905 and 1906.

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

§ 1. APPROPRIATION.] For the purpose of paying the deficiency in the appropriation made for the maintenance of the capitol, during the years 1905 and 1906, there is hereby appropriated out of any money in the state treasury, the sum of twelve thousand five hundred dollars, or so much thereof as may be necessary.

§ 2. EMERGENCY.] Whereas, the board of trustees of public property, by a communication in writing, dated January 15, 1907, recommended the passage of the above appropriation, and the sum so asked should be available before July 1, 1907, therefore an emergency exists, and this act shall be in force and effect from and after its passage and approval.

Approved March 2, 1907.

## CHAPTER 16.

[S. B. No. 62—Young]

### EXPERIMENTS IN MILLING VALUE OF WHEAT.

AN ACT Providing for the Erection of a Building upon the Agricultural Grounds in Which to Conduct the Experiments Provided for in Section 1118 of the Revised Codes of North Dakota to Determine the Milling Values of Wheat and to Install Therein Necessary Machinery, Providing for the Maintenance of the Same and Making an Appropriation Therefor.

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

§ 1. APPROPRIATION FOR BUILDING.] There is hereby appropriated the sum of six thousand dollars, or so much thereof as may be necessary, out of any moneys in the state treasury not otherwise appropriated, for the purpose of erecting a building at the agricultural college grounds in which to conduct experiments to determine the comparative milling values of the different grades of wheat and to install therein the necessary machinery and fixtures.

§ 2. APPROPRIATION FOR MAINTENANCE OF PLANT.] There is hereby annually appropriated the sum of five hundred dollars, or so much thereof as may be necessary, out of any moneys in the state treasury not otherwise appropriated, for the purpose of maintaining the plant and conducting the experiments provided for in section 1 of this act.

§ 3. EMERGENCY.] Whereas, an emergency exists in this, that the machinery and apparatus for the conducting of the experiments provided for by this act have already been purchased and delivered to the North Dakota agricultural college and the same cannot be utilized in any way until the said building is erected, now, therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 2, 1907.

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## CHAPTER 17.

[S. B. No. 14—Taylor]

### STATE UNIVERSITY.

AN ACT Making Appropriations for Permanent Improvements at the State University and School of Mines of North Dakota.

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

§ 1. APPROPRIATION.] There is hereby appropriated the following sums of money, or so much thereof as may be necessary, out of the moneys of the state treasury, not otherwise appropriated, for the purpose of making the following permanent improvements at the state university and school of mines of North Dakota, as follows, viz:

| | |
|---|---|
| To construct a sewer from the state university and school of mines to connect with the city sewer of the city of Grand Forks at the nearest point | $10,000 |
| For the erection of a combined assembly hall, armory and gymnasium | 25,000 |
| For the erection of a building for the school of mines | 20,000 |
| For the purchase of books for the library | 1,000 |
| For needed repairs to the young women's dormitories known as Davis Hall and The Cottage | 10,000 |
| Total | $66,000 |

§ 2. EMERGENCY.] Whereas, an emergency exists in that the whole of the money hereby appropriated is urgently needed for

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

Approved March 2, 1907.

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## CHAPTER 18.

[S. B. No. 95—Simpson]

### REIMBURSING CLERK OF COURT OF STARK COUNTY.

AN ACT Appropriating Money From the State Treasury, Not Otherwise Appropriated, to Compensate the Clerk of the District Court of Stark County, in This State, for the Years 1905 and 1906, for Services in Connection With His Office, Required by Law to be by Him Performed for Cases Arising in Unorganized Territory Attached to Stark County for Judicial Purposes.

*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 four hundred dollars for the purpose of compensating the clerk of the district court of Stark county, North Dakota, for services by him performed during the years 1905 and 1906, in connection with the cases arising in the unorganized territory attached to Stark county for judicial purposes.

§ 2. EMERGENCY.] An emergency exists in this, that there is now no law providing for the payment of said services, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 19, 1907.

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## CHAPTER 19.

[S. B. No. 39—Stade]

### SCHOOL FOR DEAF.

AN ACT to Provide for Making Needed Permanent Improvements for the School for the Deaf at Devils Lake, 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 moneys in the state treasury, not otherwise appropriated, the sum of twenty thousand dollars for permanent improvements and repairs to the school for the deaf at Devils Lake, viz:

| | |
|---|---|
| For addition to main building | $15,500 |
| For new boilers and other heating apparatus | 3,000 |
| For repairing barn | 1,500 |
| Total | $20,000 |

§ 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 for the making of improvements and the erection of new buildings will be needed before that time, therefore this act shall take effect immediately after its passage and approval.

Approved March 2, 1907.

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## CHAPTER 20.

[S. B. No. 339—Simpson]

### DICKINSON EXPERIMENT STATION.

AN ACT Making An Appropriation for the Dickinson Experiment Station, Located at the City of Dickinson, in Stark County.

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

§ 1. APPROPRIATION.] The sum of twenty three thousand four hundred and seventy five dollars is hereby appropriated out of any money in the state treasury not otherwise appropriated, for the Dickinson experiment station, located at the city of Dickinson, in Stark county, for the purpose of its proper maintenance and providing for suitable buildings and appliances for carrying on and enlarging experimental work in connection with agricultural products and native and other grasses and forage products, in the following items, viz:

| | |
|---|---|
| Salary | $2,800 |
| Labor | 3,000 |
| Live Stock | 1,000 |
| House and office furniture, including payment of furniture already in house | 500 |
| Fuel | 150 |
| Fodder and feeding material | 300 |
| Seeds, trees, plants and supplies | 800 |
| Tools, implements and machinery including threshing machine | 1,700 |
| Scientific apparatus, including camera and microscope | 275 |
| Typewriter | 100 |

On buildings and repairs as follows:

| | |
|---|---|
| Debt to local bank on buildings already erected | 4,500 |
| Furnishing basement and attic | 500 |
| Seed house and granary | 1,000 |
| Office building | 3,500 |
| Poultry house | 300 |
| Ice house | 350 |
| Machine and storage shed | 1,000 |
| Cottage for foreman | 1,200 |
| Repairs and incidentals | 500 |
| Light | 100 |
| Total | $23,475 |

§ 2. EMERGENCY.] An emergency exists in this that funds will be required for the above purpose prior to July 1, 1907, therefore this act shall take effect immediately after its passage and approval.

Approved March 22, 1907, except as to the following items:

| | |
|---|---|
| Live stock | $1,000 |
| Fodder and feeding material | 300 |
| Office building | 3,500 |
| Machine and storage shed | 1,000 |
| Cottage for foreman | 1,200 |
| Repairs and incidentals | 500 |
| Tools, implements and machinery, including threshing machine | 1,700 |
| Total | $9,200 |

These items are vetoed for the reason that this substation is only an adjunct to the Agricultural College, and an appropriation of $23,475 is an extravagant and unnecessary appropriation at this time.

I am of the opinion that with these items cut out of the law there will be sufficient appropriation to maintain this substation.

(Signed) JOHN BURKE,
Governor.

## CHAPTER 21.

[S. B. No. 117—Gilbert]

### ENGINEERING BUILDING AT AGRICULTURAL COLLEGE.

AN ACT Appropriating Money for the Construction and Equipment of an Engineering Building and for Making Improvements in the Mechanical Laboratories and Shops of North Dakota Agricultural College.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury not otherwise appropriated the sum of sixty-five thousand dollars for construction and equipment of an engineering building and for making improvements in the mechanical laboratories and shops of the North Dakota agricultural college at Fargo.

§ 2. EMERGENCY.] An emergency exists in this, that the work of construction and improvement herein provided for should be commenced early in the spring, therefore this act shall be in force from and after its passage and approval.

Approved March 2, 1907.

## CHAPTER 22.

[S. B. No. 135—Sifton]

### ADDITIONAL BUILDINGS AT INSANE HOSPITAL.

AN ACT to Provide for the Erection of Necessary Additional Buildings and Other Improvements at the State Hospital for the Insane at Jamestown, North Dakota, and for a Deficit on Buildings Erected in the Years 1905 and 1906 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 erecting necessary additional buildings at the state hospital for the insane at Jamestown, North Dakota, and other needed and necessary improvements and for the proper equipment of such buildings, and for the purpose of providing for a deficit on buildings erected in the years 1905 and 1906 at the hospital for the insane at Jamestown, North Dakota, the sum of seventy-two thousand nine hundred twenty-four dollars and twelve cents, or as much thereof as can be actually used in the construction of such necessary additional buildings and improvements, and for the

purpose of caring for the deficit which exists on the buildings erected in the years 1905 and 1906, as follows:

| | |
|---|---|
| New artesian well | $ 5,000.00 |
| Needed repairs to make old buildings sanitary | 1,500.00 |
| Additional land | 5,000.00 |
| New building for violent patients, to be fireproof, with protected windows, etc. | 35,000.00 |
| Cold storage plant | 5,000.00 |
| Deficiency on buildings erected in 1905 and 1906 | 21,424.12 |
| Total | $72,924.12 |

Provided, that the sum of thirty-five thousand dollars as above appropriated for a new building for violent patients shall not be available until May 1, 1908; provided, further, that before any of the money hereby appropriated for the purchase of land is available, the governor of this state shall give his assent thereto.

§ 2. EMERGENCY.] Whereas, an emergency exists in this, that the money hereby appropriated should be available before July 1, 1907, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 2, 1907.

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## CHAPTER 23.

[S. B. No. 108—Cashel]

### INSTITUTION FOR FEEBLE MINDED.

AN ACT to Provide an Appropriation for the Current and Contingent Expenses and for Permanent Improvements of the Institution for the Feeble Minded at Grafton.

*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 and for permanent improvements of the institution for the feeble minded at Grafton, for the period beginning March 1, 1907, and ending March 1, 1909, the sum of eighty-six thousand six hundred dollars, or as much thereof as may be necessary, as follows:

| | |
|---|---|
| For maintenance | $11,500 |
| For employes' wages, including officers' salaries | 24,000 |
| For fuel and lights | 9,000 |
| For training school supplies and amusements | 400 |

| | |
|---|---|
| For incidental expenses | 1,000 |
| For drugs, medicines, etc. | 500 |
| For repairs | 500 |
| For plumbing | 250 |
| For beds and bedding | 600 |
| For furniture | 600 |
| For electrical supplies and repairs | 100 |
| For supplies for engine room | 400 |
| For laundry machinery and repairs | 200 |
| For paints and painting | 750 |
| For farm implements and vehicles | 600 |
| For new power house, including water tank and tower | 15,000 |
| For remodeling west wing | 12,000 |
| For fire apparatus and water connections | 1,000 |
| For farm house repairs | 500 |
| For granary and machine sheds | 800 |
| For stock | 400 |
| For improvement to grounds | 500 |
| For additional land | 6,000 |
| Total | $86,600 |

Provided, that before any of the money hereby appropriated for the purchase of land is available, the governor of this state shall give his assent thereto.

§ 2. EMERGENCY.] An emergency exists in this, that the fiscal year for which this appropriation is made will not begin before July 1, 1907, 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 2, 1907.

## CHAPTER 24.

[S. B. No. 84—LaMoure]

### BLIND ASYLUM.

AN ACT Making an Appropriation for the Completion of the Buildings for the North Dakota Blind Asylum, for a Boiler House and Connections for the Same and for Furniture and Fixtures.

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

§ 1. APPROPRIATION.] For the purpose of completing the buildings for the North Dakota blind asylum and for other and needed furnishings, equipment, furniture, fixtures and sundry

appliances needed to place this institution in readiness for the reception of scholars, there is hereby appropriated the following sums for the uses following, to wit:

| | |
|---|---|
| Electric wiring | $ 600 |
| Gas piping | 300 |
| Lighting fixtures | 500 |
| Plumbing inside of building | 1,800 |
| Steam heating | 3,800 |
| Ventilation system | 3,000 |
| Automatic control | 2,000 |
| Electric bells | 60 |
| Plastering | 2,750 |
| Six fire doors | 175 |
| Two vault doors | 180 |
| Tile floors | 135 |
| Maple floors and paper | 1,825 |
| Mill work | 3,000 |
| Labor on mill work | 1,500 |
| Painting and tinting | 1,300 |
| Boiler house, stack, and tunnel conecting the same to main building | 7,000 |
| Rough grading | 1,000 |
| Finishing hardware | 500 |
| Architect's commission | 1,099 |
| Sewer disposal | 2,000 |
| Furniture and fixtures | 3,700 |
| Total | $38,224 |

§ 2. EMERGENCY.] Whereas, there is need that the foregoing buildings be completed and made ready for the reception of scholars and the money hereby appropriated should be available before July 1st next, therefore an emergency exists and this act shall take effect and be in full force from and after its passage and approval.

Approved March 2, 1907.

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## CHAPTER 25.

[S. B. No. 186—Taylor]

### UNIVERSITY REPAIRS.

AN ACT Making Appropriation for Expenses Incurred in Repairs Made to the So-Called Main Building at the State University and School of Mines of North Dakota During the Summer of 1906.

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

§ 1. APPROPRIATION.] There is hereby appropriated the sum of eighteen thousand two hundred thirty-five dollars and five cents

to cover the cost of repairing the main building at the state university and school of mines of North Dakota during the summer of 1906.

§ 2. EMERGENCY.] Whereas, an emergency exists in that the expenses for these repairs have already been incurred and the contractors are still in large part unpaid, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 2, 1907.

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## CHAPTER 26.

[S. B. No. 185—Taylor]

### PUBLIC HEALTH LABORATORY.

AN ACT Appropriating Money to Provide for the Equipment and Maintenance of a Public Health Laboratory in the Medical Department of the State University and School of Mines at Grand Forks.

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

§ 1. APPROPRIATION.] For the purpose of meeting the necessary expenses in the conduct of a public health laboratory in the medical department of the state university and school of mines at Grand Forks, there is hereby annually appropriated out of the state treasury, from any moneys not otherwise appropriated, the sum of five thousand dollars, or so much thereof as may be necessary, subject to the control and regulation of the board of trustees of such institution.

§ 2. APPROPRIATION FOR EQUIPMENT.] For the purpose of providing proper equipment and apparatus for said public health laboratory there is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of two thousand dollars.

§ 3. EMERGENCY.] Whereas, it is necessary that the apparatus herein provided for should be purchased prior to July 1st, therefore an emergency exists and section 2 of this act shall take effect and be in force from and after its passage and approval.

Approved March 2, 1907.

# CHAPTER 27.

[S. B. No. 243—LaMoure]

## PAYING CERTAIN INSTITUTIONAL INDEBTEDNESS.

AN ACT to Reimburse the Person or Persons Who Advanced Certain Sums of Money for the Use and Benefit of the State Normal School at Mayville, the State Normal School at Valley City and the Industrial School at Ellendale, to Provide for the Interest on the Said Sums and Making an Appropriation Therefor.

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

§ 1. APPROPRIATION.] For the purpose of paying the principal sum of twenty thousand dollars advanced by certain persons for the use and benefit of the state normal school at Mayville, under date September 1, 1891; the principal sum of twenty thousand dollars for the use and benefit of the state normal school at Valley City under date September 1, 1891, and the principal sum of fifteen thousand dollars for the use and benefit of the industrial school at Ellendale, under date February 21, 1898, there is hereby appropriated out of any money in the state treasury the sum of fifty-five thousand dollars for the purpose of reimbursing the said persons for the said sums so advanced.

§ 2. INTEREST TO BE PAID.] For the purpose of paying the interest due on the said above mentioned sums, up to the time of the taking effect of this act, there is hereby appropriated out of any money in the state treasury a sufficient sum to pay the same on the terms as indicated in the original evidences of indebtedness referred to in section 1 of this act.

§ 3. STATE TREASURER AND AUDITOR, DUTIES OF.] Immediately upon the taking effect of this act it is hereby made the duty of the state treasurer to forthwith notify the holders of the above-mentioned evidences of indebtedness, by a notice in writing, in a registered letter, addressed to the last known postoffice address of any holder of said evidences of indebtedness, that there is in his hands a sufficient sum of money to take up and cancel the same and that from and after that date the said evidences bear no interest. Upon receipt of the said evidences of indebtedness the state auditor is authorized to draw his warrant for a sufficient sum to pay the same, principal and interest, and the state treasurer shall cancel and retire the said evidences of indebtedness.

§ 4. EMERGENCY.] Whereas, an emergency exists in this, that the above-mentioned evidences of indebtedness should be paid prior

to July 1, 1907, therefore this act shall take effect and be in force from and after its passage and approval.

Received by the governor March 2, 1907, at 4 p. m.

Filed in the office of the secretary of state, March 6, 1907, at 10:15 a. m.

Became a law without executive approval.

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## CHAPTER 28.

[H. B. No. 167—Chapman]

### TO ZENO BRUEGGER.

AN ACT Appropriating to Zeno Bruegger, Clerk of the District Court of Williams County, North Dakota $200 Clerk's Fees for Services Rendered in the Unorganized Territory Attached to Williams County for Judicial Purposes During the Years 1903 and 1904.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any funds in the state treasury, not otherwise appropriated, the sum of two hundred dollars to Zeno Bruegger, clerk of the district court of Williams county, North Dakota, as fees for services performed in the prosecution of criminal cases arising in the unorganized territory attached to Williams county for judicial purposes during the years 1903 and 1904.

Approved March 13, 1907.

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## CHAPTER 29.

[S. B. No. 133—Sifton]

### INSANE HOSPITAL MAINTENANCE.

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

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

§ 1. APPROPRIATION.] There is appropriated out of any money in the state treasury, not otherwise appropriated, for the purpose of paying the current and contingent expenses of the state hospital for the insane at Jamestown for the fiscal years 1907 and 1908, the sum of one hundred fifteen thousand nine hundred sixty dollars, or so much thereof as may be necessary, as follows:

| | |
|---|---|
| Wages of employes | $ 50,000 |
| Salaries of resident officers | 14,600 |
| Fuel and lights | 28,500 |
| Incidental expenses and repairs | 5,000 |
| Drugs, medicines, medical books, etc. | 2,000 |
| Return of patients and burial of dead | 2,000 |
| Beds, bedding, furniture, etc. | 5,000 |
| Library of amusements and chaplain's services | 1,500 |
| Farm machinery, twine, harness, etc | 1,000 |
| Plumbing, steamfitting and repairs to sewers | 1,500 |
| Paints, painting and window glass | 2,000 |
| Engine and boiler room supplies | 850 |
| Electric lamps and repairs to plant | 650 |
| Laundry repairs and supplies | 560 |
| Blacksmith shop supplies | 350 |
| Fire department, hose, etc. | 450 |
| Total | $115,960 |

§ 2. EMERGENCY.] An emergency exists in this, that the fiscal year for which this appropriation is made, shall not begin before July 1, 1907, 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 4, 1907.

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## CHAPTER 30.

[S. B. No. 270—Wagner]

### EXPENSES OF STATE OFFICERS.

AN ACT to Provide for the Payment of the Necessary Expenses of the State Officers of the State of North Dakota.

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

§ 1. WHO RECEIVES.] The governor, secretary of state, state auditor, state treasurer, attorney general, commissioner of agriculture and labor, commissioner of insurance, superintendent of public instruction, clerk of the supreme court, commissioner of university and school lands, state inspector of oils and adjutant general, shall each for himself receive for the years 1907 and 1908 the sum of five hundred dollars per annum for the purpose of defraying his personal expenses in the discharge of the duties pertaining to his office and for other necessary expenses, to be paid quarterly without the filing of any itemized statement.

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

§ 3. EMERGENCY.] An emergency exists in this, that there is no provision of law providing for the payment of the necessary expenses of the state officers in the discharge of their official duties, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 4, 1907.

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## CHAPTER 31.

[S. B. No. 69—Kraabel]

### PROMOTION OF IMMIGRATION.

AN ACT Making an Appropriation for Carrying Into Effect Provisions of Law Relating to the Duties of the Commissioner of Agriculture and Labor.

WHEREAS, Our agricultural department during the past two years has extensively and beneficially advertised the resources and advantages of the state of North Dakota through the many letters it has published in eastern newspapers, the literature it has distributed, the exhibits it has made at the different state fairs; and

WHEREAS, The said agricultural department has been instrumental in inducing many hundreds of people to locate in this state through the methods it has employed; and

WHEREAS, Many false, sensational and detrimental reports have been published lately in the eastern newspapers and periodicals, and promulgated semi-officially, calculated to work injury to the good name of North Dakota and retard immigration to this state; and

WHEREAS, We believe it to be our duty to refute these misrepresentations and continue to labor for the best interests of the state and employ all honorable and legitimate efforts to induce immigration and to continue the good work of industrial progress and commercial development; therefore

*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 hands of the treasurer, not otherwise appropriated, the sum of twenty thousand dollars, or so much thereof as may be necessary to carry into effect all laws relating to the publication of the advantages offered to settlers and investors for lands in the state of North Dakota.

§ 2. EMERGENCY.] An emergency exists in that there are now no funds in the hands of the treasurer available for carrying out the provisions provided in this act, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 4, 1907.

## CHAPTER 32.

[S. B. No. 54—Kraabel]

### MAYVILLE NORMAL DEFICIT.

AN ACT Making an Appropriation for a Deficit in Expenses for the Construction of Additions to Present Buildings, for Heating Plant, Erection and Equipment of a Dormitory for State Normal School at Mayville, and for Interest on Overdue Warrants Issued in Connection Therewith.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any funds in the state treasury not otherwise appropriated the following sum, viz: the sum of seven thousand nine hundred and sixty-six dollars and ninety-five cents, for the payment of debts incurred over and above appropriation made for the repairing of and the building of an addition to the present building and heating plant, and for the erection and equipment of a dormitory for the state normal school at Mayville. Also the sum of three hundred and fifty dollars to pay the interest due upon warrants drawn as a portion of the above indebtedness and unpaid.

§ 2. EMERGENCY.] Whereas, an emergency exists in that the money hereby appropriated is needed for immediate use, and the prevention of further accrual of interest, this act shall take effect on and after its passage and approval.

Approved March 4, 1907.

## CHAPTER 33.

[H. B. No. 28—Buttz]

### SOLDIERS' HOME.

AN ACT Making Appropriation to Cover Deficiency on Monument, for Sewer and Reconstruction of Plumbing, for Remodeling for New Dormitory, and for Construction of an Administration Building at Soldiers' Home.

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

§ 1. APPROPRIATION.] 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 deficiency on the soldiers' monument erected in Oakwood cemetery, at Lisbon, for a sewer and

reconstruction of plumbing, for remodeling for new dormitory, and construction of an administration building at the soldiers' home, the following amounts to be available on and after the passage and approval of this act, it being understood that the money realized from the interest and income fund, and the sale of land belonging to the institution and now available are sufficient to maintain the institution:

| | |
|---|---|
| To cover deficiency on monument..... | $ 735.00 |
| For construction of an administration building | 5,000.00 |
| Total ..... | $5,735.00 |

§ 2. ADDITIONAL APPROPRIATION.] The board of trustees of said soldiers' home are authorized to expend, in addition to the amounts hereinbefore appropriated, from the interest and income funds of said institution for purposes hereinafter mentioned, the following amounts:

For re-construction of sewer and plumbing, $3,000;

For remodeling dormitory, $500;

For completing administration building, $1,500;

Provided, that the expenditure herein authorized shall not be made until there is a sufficient surplus in the interest and income fund over and above the amount required for maintenance to pay for the work so ordered.

Approved March 5, 1907.

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## CHAPTER 34.

[H. B. No. 134—Peake]

### REIMBURSEMENT MONEY ADVANCED PORTLAND EXPOSITION.

AN ACT to Appropriate $5,894.93 to Balance Overdraft and Reimburse Citizens Who Advanced Money to Help Defray Expenses Incurred in Making the State's Exhibit at the Portland (Lewis and Clark) Exposition.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any funds in the state treasury not otherwise appropriated the sum of $5,894.93 to balance overdraft and re-imburse citizens who advanced money to help defray expenses incurred in making the state's exhibit at the Portland (Lewis and Clark) exposition.

§ 2. TO WHOM WARRANTS ISSUE.] The state auditor is hereby authorized to draw warrants against the above appropriation in

favor of the following named persons and for the amounts stated, upon vouchers properly signed and approved:

| | |
|---|---|
| H. R. Lyon, Mandan | $ 100.00 |
| David Bartlett, Cooperstown | 100.00 |
| J. D. Bacon, Grand Forks | 100.00 |
| William Budge, Grand Forks | 100.00 |
| W. N. Steele, Rolla | 100.00 |
| R. A. Fox, Towner | 100.00 |
| Andrew Gilbertson, Towner | 100.00 |
| J. L. Cashel, Grafton | 100.00 |
| J. D. Brown, Hope | 100.00 |
| H. L. Holmes, Bathgate | 100.00 |
| J. F. Robinson, Steele | 100.00 |
| Ed Pierce, Sheldon | 100.00 |
| C. J. Lord, Cando | 100.00 |
| L. C. Pettibone, Dawson | 100.00 |
| J. B. Streeter, Larimore | 100.00 |
| M. H. Jewell, Bismarck | 100.00 |
| Albert Garnett, St. Thomas | 100.00 |
| T. W. McGill, 206 La Salle St., Chicago | 100.00 |
| M. A. Baldwin, Casselton | 100.00 |
| L. B. Hanna, Fargo | 100.00 |
| C. B. Little, Bismarck | 100.00 |
| W. L. Richard, Dickinson | 100.00 |
| Clay Larimore, Larimore | 100.00 |
| C. S. Edwards, Mayville | 100.00 |
| J. H. Ehlers, Harvey | 100.00 |
| V. B. Noble, Bottineau | 100.00 |
| C. L. Newhouse, Bottineau | 100.00 |
| J. E. Phelan, Dickinson | 50.00 |
| A. T. Crowl, Dickinson | 50.00 |
| V. H. Stickney, Dickinson | 50.00 |
| A. Hilliard, Dickinson | 50.00 |
| Morris Beck, Jamestown | 50.00 |
| John Knauf, Jamestown | 50.00 |
| J. W. Sifton, Jamestown | 50.00 |
| Oscar J. Seiler, Jamestown | 50.00 |
| F. B. Chapman, Buford | 25.00 |
| H. C. Delaney, Williston | 25.00 |
| A. F. Nohle, Buford | 25.00 |
| Richard Dailey, Devils Lake | 25.00 |
| D. S. Bangs, Devils Lake | 25.00 |
| Fred Baker, Devils Lake | 25.00 |
| H. E. Baird, Devils Lake | 25.00 |
| C. M. Fisher, Devils Lake | 25.00 |
| Frank Whitman, Devils Lake | 25.00 |
| Ole Serumgard, Devils Lake | 25.00 |
| H. M. Creel, Devils Lake | 25.00 |
| Total | $3,375.00 |

And the balance of $2,519.93 to cover overdraft.

§ 3. EMERGENCY.] Whereas, an emergency exists in that there are no funds available to cover this deficit, therefore this act shall take effect and be in force from and after its passage and approval.

Received by the governor, March 2, 1907, at 4 p. m.

Filed in the office of the secretary of state, March 6, 1907, at 10:15 a. m.

Became a law without executive approval.

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## CHAPTER 35.

[H. B. 221—Anderson of Grand Forks]

### FOR SALARY OF E. F. CHANDLER.

AN ACT Authorizing the State Auditor to Audit the Salary and Expense Acccount of E. F. Chandler, State Engineer, for the Months of February and March, 1905, and Making an Appropriation to Pay the Same.

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

§ 1. STATE AUDITOR TO ADJUST ACCOUNT.] The state auditor is hereby authorized to audit and adjust the account of E. F. Chandler, state engineer, for the months of February and March, 1905, and to draw his warrant on the state treasurer in favor of E. F. Chandler for the amount due him.

§ 2. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of $150, or so much thereof as is necessary to pay the salary and expenses of E. F. Chandler, state engineer, for the months of February and March, 1905.

§ 3. EMERGENCY.] An emergency exists, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 5, 1907.

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## CHAPTER 36.

[S. B. No. 139—Thatcher]

### INDUSTRIAL SCHOOL.

AN ACT to Provide for Making Necessary Improvements at the Industrial School and School for Manual Training, Located at Ellendale, Providing for the Payment of Interest on Certificates of Indebtedness and Making an Appropriation Therefor.

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

§ 1. APPROPRIATION.] For making necessary improvements at the industrial school and school for manual training, located at

Ellendale. and for the payment of interest due on certificates of indebtedness, there is hereby appropriated out of the state treasury, from any moneys not otherwise appropriated, the sum of thirty-three thousand eight hundred dollars, as follows:

| | |
|---|---|
| For dormitory | $25,000 |
| For repairs | 2,500 |
| For mechanical and industrial arts | 2,000 |
| For purchase of library books | 1,000 |
| For improvements of ground | 500 |
| For payment of interest on certificates of indebtedness | 2,800 |
| Total | $33,800 |

§ 2. EMERGENCY.] Whereas, in the opinion of the legislative assembly an emergency exists, therefore this act should take effect and be in force from and after its approval.

Approved March 4, 1907.

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## CHAPTER 37.

[S. B. No. 64—Sharpe]

### EDGELEY SUB-EXPERIMENT STATION.

AN ACT Appropriating Money for Paying the Indebtedness on Superintendent's Residence and for Building a Machine Shed and Seed House and for Other Improvements at Edgeley Sub-Experiment Station.

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

§ 1. APPROPRIATION.] There is hereby appropriated the following sums of money or so much thereof as may be necessary, out of the monies of the state treasury not otherwise appropriated, for payment of balance on superintendent's residence, and for the purpose of making the following improvements at the Edgeley sub-experiment station, as follows, viz:

| | |
|---|---|
| Balance due on superintendent's residence | $ 3,000 |
| For the erection of a seed house | 2,500 |
| For the erection of a machine shed | 1,500 |
| For putting down an artesian well | 2,000 |
| For piping to house, barn and testing (gas for lighting and heating) | 1,000 |
| Total | $10,000 |

§ 2. EMERGENCY.] An emergency exists in this, that the construction of the machine shed and seed house should be begun

early in the spring and the indebtedness upon the superintendent's residence should be paid at an early date.

VETO.

Approved March 2, 1907, except as to item $2,500 for seed house, item $2,000 for putting down artesian well and item $1,000 for testing gas.

JOHN BURKE,
Governor.

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## CHAPTER 38.

[S. B. No. 268—Little]

### LAW LIBRARY.

AN ACT Making an Appropriation to Pay for Certain Books for the State Law Library.

*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 the sum of one thousand six hundred nineteen dollars and forty cents to pay for certain law books purchased by the judges of the supreme court for the state law library, being for five hundred volumes of the English Law Reports, five volumes of the American State Reports and twenty volumes of the National Reporter system.

§ 2. EMERGENCY.] Whereas, the purchase of these books was necessary for the state law library, for the proper equipping of the same, and the said books should be paid for prior to July 1, 1907, therefore an emergency exists and this act shall take effect and be in force from and after its passage and approval.

Approved March 2, 1907.

# BADGES

## CHAPTER 39.

[S. B. No. 137—Talcott]

### UNLAWFUL TO WEAR UNAUTHORIZED BADGES.

AN ACT Amending Section 9245, Relating to Unauthorized Wearing or Use of Badges, Name, Title of Officers, Insignia, Ritual or Ceremonies of Certain Orders and Societies, and the Penalties Provided Therefor.

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

§ 1. WEARING BADGES PROHIBITED, WHEN. PENALTY.] Any person who willfully wears the badge or button of the Grand Army of the Republic, the insignia, badge or rosette of the Military Order of the Loyal Legion of the United States, or the badge or button of the Spanish War Veterans, or the Sons of Veterans, or of any society, order or organization of five years standing in the state of North Dakota, or uses the same to obtain assistance within the state, or willfully uses the name of such society order or organization, the titles of its officers, or its insignia, ritual or ceremonies, unless entitled to use or wear the same under the constitution and by-laws, rules and regulations of such order or of such society, order or organization, is guilty of a misdemeanor, and upon conviction thereof is punishable by a fine of not less than ten and not exceeding twenty-five dollars for each and every offense.

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

Approved March 8, 1907.

# BINDING TWINE

## CHAPTER 40.

[S. B. No. 114—Little]

### REGULATING SALE OF PRODUCT OF TWINE PLANT.

AN ACT to Amend Section 10381 of the Revised Codes of 1905, Relating to the Manner of Disposing of the Product of the State Binder Twine Plant, and Prescribing Duties of Accounting Officer.

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

§ 1. AMENDMENT.] Section 10381 of the revised codes of 1905 is amended to read as follows:

§ 10381. PRODUCT OF THE PLANT, HOW DISPOSED OF.] The product of said twine and cordage plant shall be disposed of under the direction of 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 at a regular or special meeting held not later than February in each year, shall fix prices at which the product of the plant shall be sold during the ensuing 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 products shall be sold only to those living in the state, and intending or agreeing to use it, or sell it for use, in the state, except that it shall be lawful at any time after June first of any year to sell a part of such product outside of the state if for any reason at that time in the judgment of the said board it becomes necessary to do so to protect the interests of the state. The price of the product of the plant so established as above provided, 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 case the change in price can be made at any regular or special meeting of said board thereafter held.

§ 2. AMENDMENT.] Section 10382 of the revised codes of North Dakota for 1905 is amended to read as follows:

§ 10382. DUTY OF ACCOUNTING OFFICER.] It shall be the duty of the warden of the state penitentiary to keep a true and accurate account of all notes, evidences of indebtedness and money received by him for the sale of the product of said plant, and at the end of each month to turn all money so received over to the state treasurer and take his receipt therefor and he shall at the same time

furnish the state auditor with a statement showing the amount of the same and the source from which it came; and all sums so placed in the hands of the state treasurer, arising from sales of the product of said plant, shall be placed to the credit of the "operating fund" hereinbefore mentioned and referred to. On the failure of the warden to carry out any of the provisions hereof he shall be subject to a fine of not less than one hundred dollars or more than five hundred dollars.

§ 3. 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 March 19, 1907.

# BOUNTY

## CHAPTER 41.

[H. B. No. 17—Duncan.]

### BOUNTY FOR TREE PLANTING.

AN ACT to Amend Section 2082 of the Revised Codes of 1905, Relating to Forest Tree Culture.

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

§ 1. AMENDMENT.] Section 2082 of the revised codes of 1905 is amended to read as follows:

§ 2082. BOUNTY FOR TREE PLANTING.] Any person who shall hereafter plant, cultivate and keep in a growing, thrifty condition, one acre and not more than ten acres of prairie land with any kind of forest trees, and shall plant or have planted said trees not more than eight feet apart each way shall be entitled to three dollars for each acre so planted and cultivated, to be paid out of the general fund of the county wherein said trees are so planted, but such bounty shall not be so paid unless such grove be maintained upon a tract of not less than eighty acres and shall have at least four hundred living trees on each acre so maintained and kept in growing condition, and in no case shall any bounty be paid in excess of the amount of the real estate taxes levied against persons applying for said bounty, and in no case shall any bounty be paid in excess of the amount of the taxes.

Approved March 12, 1907.

# BRIDGES

## CHAPTER 42.

[H. B. No. 219—Dibley]

### COUNTY BRIDGES.

AN ACT to Amend Sections 1378 and 1380 of the Revised Codes of 1905, Relating to Location and Building of Bridges.

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

§ 1. AMENDMENT.] Sections 1378 and 1380 of the revised codes of 1905 are amended to read as follows:

§ 1378. PETITION. BIDS.] Whenever a majority of the freeholders of a civil township or a majority of freeholders living within a radius of three miles of the proposed location, shall petition the board of county commissioners for a bridge at a specified location within such township, or within any incorporated city or village, when the cost of such bridge shall exceed the sum of one hundred dollars, it shall be the duty of the board of county commissioners to view and investigate the necessity of such proposed bridge; and if such county board approves its location and building, it shall proceed to advertise in the official paper in the county, for a period of thirty days, the plans and specifications of the proposed bridge, asking for sealed bids for the building of such bridge, to be submitted to them at their next regular or special meeting, at which meeting of the board it shall proceed to examine all proposals or bids for the building of such bridge, and shall award the contract to the lowest responsible bidder, requiring such bidder to give a bond in a sum not less than the amount stipulated in the bid or contract, conditioned for the faithful compliance with the terms of such bid or contract, which bond shall be approved by the board of county commissioners and filed in the office of the county auditor.

§ 1380. SUPERVISION AND REPAIRS OF BRIDGE.] Any bridge built under the provisions of section 1378 shall be under the supervision of the township board, or of the city council in any incorporated city, or of the board of trustees of any incorporated village, and all repairs not exceeding fifty dollars shall be borne by the township, or by the incorporated city or village, where such bridge is located, and in excess of that sum, by the county; provided, that when the cost of repairing such bridge exceeds fifty dollars, it shall be under the supervision of the county commissioners, and that the cost of all such repairs shall be estimated by the county commissioners; provided, however, that should an emergency arise, requiring

the immediate rebuilding or repairing of any bridges, the board of county commissioners are hereby authorized to rebuild or repair as the circumstance requires, and without advertising for bids, in case said work can be performed by a responsible party, at a price not to exceed the last bid accepted by said board of county commissioners for like work.

§ 2. EMERGENCY]. Whereas, an emergency exists, therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 13, 1907.

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# CATTLE AND HORSE THIEVES

## CHAPTER 43.

[H. B. No. 292—Blake]

### REWARD FOR CATTLE AND HORSE THIEVES.

AN ACT to Amend Section 9202 of Chapter 50 of the Revised Codes of 1905 for the State of North Dakota, Relating to the Manner of Payment of Reward for the Arrest and Conviction of Horse and Cattle Thieves.

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

§ 1. AMENDMENT.] Section 9202 of the revised codes of North Dakota for 1905 be and the same is hereby amended to read as follows:

§ 9202. REWARD FOR ARREST AND CONVICTION OF HORSE AND CATTLE THIEVES.] The sum of one hundred dollars shall be paid to the person or persons for the arrest and conviction of each and every person who steals any horses, cattle, or mules, from any person or persons in this state. A verified claim shall be presented to the state auditor by the person or persons claiming such reward; such claim shall be accompanied by a certificate from the clerk of the court of the county wherein such conviction was procured. The certificate of the clerk of the court shall state the name of the person or persons convicted, the date and for what such person or persons were convicted, and it shall certify as to the person or persons who have furnished the evidence according to which the conviction was procured, and such statement shall be certified to by the state's attorney. This claim shall be audited by the state auditing board as other claims against the state, and when approved payment of reward shall be made by the state auditor directly to the person or persons entitled thereto.

§ 2. EMERGENCY.] Whereas, the present law prescribing the method for paying rewards is not practical, therefore this act shall take effect and be in force after its passage and approval.

Approved March 14, 1907.

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# CEMETERIES

## CHAPTER 44.

[H. B. No. 308—Treat]

### CEMETERY PLATS.

AN ACT to Amend Section 4587, Revised Codes of North Dakota of 1905, Relating to Cemetery Corporation.

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

§ 1. AMENDMENT.] Section 4587 of the revised codes of 1905 relating to cemetery corporations is amended to read as follows:

§ 4587. SURVEY AND PLAT. RECORD.] Such corporation shall cause its land, or such portion thereof as may from time to time become necessary for that purpose, to be surveyed into lots, avenues and walks and platted and the plat of ground as surveyed shall be acknowledged and recorded in the office of the register of deeds of the county. Each lot shall be regularly numbered by the surveyor and such number shall be marked on the plat and recorded. Any plat may be vacated by such corporation at any time before the sale of any lots therein by a majority vote of the directors of such corporation, and when so vacated a written instrument declaring the same to be vacated, executed and acknowledged, as such plats are executed and acknowledged, shall be recorded in the office of the register of deeds where such plat is recorded; and in case any lot or lots have been sold in such plat and reconveyed by the owners thereof to such corporation, such plat may be vacated as hereinbefore provided; and such corporation may by a majority vote of its directors vacate any avenue or avenues, walk or walks, in its cemetery upon the written petition of all owners of lots abutting upon such avenue, avenues, walk or walks, and when any avenue, avenues, walk or walks are so vacated such avenue, avenues, walk or walks shall revert to and become the property of the owners of lots abutting thereon from either side to the center thereof; and such corporation shall file, in the office where the plat of such cemetery is filed, a plat of such portion of said cemetery showing such change, and acknowledged as such plats are required

to be acknowledged. The register of deeds in whose office the plats aforesaid are recorded shall write in plain, legible letters across the plat or that part of a plat so vacated the word "vacated," and shall make a reference on the same to the volume and page in which such instrument of vacation is recorded.

Approved March 14, 1907.

# CITIES

## CHAPTER 45.

[S. B. No. 278—Senator Hanna and Representative Peake]

### COMMISSION SYSTEM FOR CITIES.

AN ACT to Provide for a Commission System of Government in Cities Which Shall Adopt the Provisions of This Act.

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

§ 1. CITIES INCORPORATED, HOW.] Any city in this state and any incorporated town or village therein having a population of not less than two thousand inhabitants may become incorporated, under this chapter, as a city in the manner following: Whenever one-tenth of the legal voters of such city, or one-tenth of the legal voters of such incorporated town or village, voting at the last preceding general election, shall petition the mayor and council of such city, or the president and trustees of such incorporated town or village, to submit the question as to whether such city, incorporated town or village shall become incorporated under this chapter, to a vote of the electors in such city, town or village, it shall be the duty of such mayor and council of such city, or president and trustees of such incorporated town or village, to submit such question accordingly, and to appoint a time and place or places at which such vote may be taken, and to designate the persons who shall act as judges and clerks at such election; but such question shall not be submitted oftener than once in four years.

§ 2. NOTICE OF ELECTION.] The mayor of such city or president of such incorporated town or village shall give at least twenty days' notice of such election by publishing a notice thereof in one or more newspapers within such city, incorporated town or village, but if no newspaper is published therein, then by posting at least five copies of such notice in each ward or voting precinct of such city, town or village, if divided into wards and precincts; if not, then within such city, town or village.

§ 3. FORM OF BALLOTS.] The ballots to be used at such election shall be in the following form:

"For city charter under commission system of government, ☐;"

"Against city charter under commission system of government, ☐;"

the elector to designate his choice by placing a cross in the square opposite his choice. The judges of such election shall make returns thereof to the city council of such city, or trustees of such incorporated town or village, whose duty it shall be to canvass such returns, and cause the result of such canvass to be entered upon the records of such city, town or village. If a majority of the votes cast at such election shall be for city organization under commission system, such city shall henceforth be deemed to be organized under this chapter, and the city, village or town officers then in office shall thereupon exercise the powers conferred upon like officials by this chapter, until their successors shall be elected and qualified.

§ 4. Within twenty days after the issuance of patent incorporating any city under the provisions of this act it shall be the duty of the mayor or president of the city, town or village voting such incorporation to call a special election for the purpose of electing the first board of city commissioners provided for herein, such election to be held as provided in section 14 of this act.

§ 5. COURT TAKES JUDICIAL NOTICE.] All courts in this state shall take judicial notice of the existence of cities organized under this chapter, and of the change of the organization of any city from its former organization to its organization under this chapter, and from the time of such organization the provisions of this chapter shall be applicable to such city, and all laws in conflict herewith shall no longer be applicable; but all laws or parts of laws not inconsistent with the provisions of this chapter shall continue in force and be applicable to any such city the same as if such change had not taken place.

§ 6. BODIES CORPORATE.] Cities organized under this chapter shall be bodies politic and corporate under the name and style of "city of (name)," and under such name may sue and be sued, contract and be contracted with, acquire and hold real and personal property for corporate purposes, have a common seal and change the same at pleasure, and exercise all the powers hereinafter conferred.

§ 7. VESTED RIGHTS.] All rights and property of every kind and description which were vested in any municipal corporation under its former organization, shall be deemed and held to be vested in the same municipal corporation upon its being incorporated under the provisions of this chapter, but no rights or liabilities, either in favor of or against such corporation, existing at the time of so becoming incorporated under this chapter, and no action or prosecution of any kind shall be affected by such change, but the same shall stand and progress as if no change had been made;

provided, that when a different remedy is given by this chapter, which may properly be made applicable to any right existing at the time of such city so becoming incorporated under this chapter, the same shall be deemed cumulative to the remedies before provided and used accordingly.

§ 8. LEGAL IDENTITY OF CITIES NOT CHANGED.] All ordinances and resolutions in force in any city at the date of its organization under this chapter shall continue in full force and effect until repealed or amended notwithstanding such change of organization, and such change of organization shall not change the legal identity of such city as a corporation.

§ 9. RESULT OF ELECTION, RETURNS OF.] If a majority of all the votes cast at such election shall be for a commission system, then said city shall adopt the form herein provided for. The result of the election as canvassed by the judges shall be returned to the town, city or village clerk, as the case may be, and if a majority of all the votes cast are in favor of a commission system of government said clerk shall certify the fact to the secretary of state, together with the result of the census taken, if any, and thereupon a patent shall be issued as hereinafter provided, which shall specify the boundaries of such city and the number and boundaries of the wards thereof.

§ 10. CERTIFIED TO SECRETARY OF STATE.] If said commission system of government be accepted the result shall be certified under the corporate seal of the city to the secretary of state, together with a copy of the proceedings relating thereto; thereupon the governor shall issue letters patent under the great seal, reciting the facts, defining the boundaries of the city and constituting the same a body corporate and politic by the name of the city of .....(specifying the name of such city) and declaring that the same shall be governed by the provisions of this chapter.

§ 11. PATENT, WHERE RECORDED.] Any patent issued under the provisions of this chapter shall be recorded in the office of the secretary of state in a book kept for that purpose. Any patent so issued and recorded, the record thereof or a certified copy of such record shall be conclusive evidence in all courts and places of the due incorporation of the city mentioned and of all the facts therein recited.

§ 12. BOUNDARIES OF WARDS.] The number and the boundaries of the wards of any city organized under the provisions of this chapter may be changed by ordinance adopted by a majority vote of the city commissioners, provided said ordinance must be introduced at a regular meeting of the city commissioners in May and before final action is taken thereon shall be published in the official paper of the city, if any, otherwise in a newspaper designated by such ordinance, once in each week for four successive weeks, and when the boundaries of any wards are fixed by any ordinance the number of wards and boundaries thereof or of any of said wards

shall not be again changed for a period of two years except by adding thereto such territory as may at any time be added to the city limits; provided, further, that the territory of the wards shall be contiguous and compact and that no ward having a population of less than one hundred shall be created.

§ 13. OFFICERS.] The officers of cities incorporated under this act shall be a president of the board of city commissioners and four city commissioners who, together, shall be known as the board of city commissioners of the city of.....; a treasurer, auditor, attorney, a police magistrate, one or more justices of the peace, one or more assessors, a physician, street commissioner, chief of fire department, city engineer, chief of police, a board of public works, one or more policemen, and such other officers or boards as the board of city commissioners may deem necessary; provided, that the board of city commissioners by a majority vote may dispense with the offices of street commissioner, engineer and board of public works and provide that the duties thereof be performed by other officers or boards by the board of city commissioners or a committee thereof.

§ 14. ELECTIONS BIENNIAL.] Biennial municipal elections in all cities shall be held on the first Tuesday in April at such place or places as the board of city commissioners shall designate. The polls of such election shall be opened at eight o'clock a. m. and closed at five o'clock p. m. Ten days' previous notice of the time and place of such election and of the officers to be elected shall be given by the city auditor by publication in the official city paper and by posting written or printed notices in three public places in the city; but the failure to give such notice shall not invalidate such election. In all other respects such election shall be conducted as prescribed by general election laws, except that no registration of voters shall be required unless provided for by ordinance.

§ 15. COMMISSIONERS, HOW ELECTED.] The president of the board of city commissioners and four city commissioners shall be elected by the legal and qualified voters in the city, in the following manner: The president of the board of city commissioners and the four city commissioners shall be elected at large and not by wards. Each voter shall be allowed to cast but one vote for the candidate for the office of president of the board of city commissioners. Each voter shall be allowed as many votes for the candidates of the office of city commissioners as there are commissioners to be elected, such votes to be distributed among the candidates as the voter shall see fit, but no voter shall be allowed to cast more votes than candidates to be elected.

§ 16. TERMS OF OFFICE.] Each of said four commissioners and the president of the board shall hold office for four years from and after the date of his qualification and until his successor shall have been duly elected and duly qualified, except the first board, the two commissioners receiving the highest number of votes shall

hold for four years, the two receiving the next highest for two years.

§ 17. ELIGIBILITY OF OFFICERS.] No person shall be eligible for an office created by the provisions of this chapter who is not at the time of his election a citizen of the United States and of this state and resident elector of the city.

§ 18. TERMS, BEGIN WHEN.] The term of office of the president and members of the board of city commissioners shall commence on the third Tuesday of April succeeding their election and qualification except in the case of their first election when their term of office shall commence within ten days succeeding such election. The term of all other officers shall commence on the first day of May succeeding their appointment unless otherwise provided by ordinance, and they shall hold for such term as has been provided for each respectively and until their respective successors are qualified.

§ 19. SUCCESSION.] The first president and the other members of the first board of commissioners appointed and elected under this act, shall be held and deemed, in law and in fact, the successors of the mayor and aldermen of said city, and upon the qualification of said president and the other members of said board of commissioners, all the powers, rights and duties of the mayor and board of aldermen of said city shall cease; and whenever the said city has heretofore, under the decree of judgment of any court, or under any law, ordinance or resolution, been entitled to representation through the mayor of said city and one or more of the aldermen thereof, on the board of directors of any incorporated company in which the said city may own stock or be interested, it shall hereafter be represented on any such board of directors by the president of said board of commissioners, and by two other members of said board, to be selected by said board.

§ 20. STYLE OF COMMISSION.] Said commissioners shall collectively constitute and be known as the "board of city commissioners of the city of ....." They shall take an oath to faithfully perform the duties of their respective offices and each shall receive such compensation for his services as may be provided by law.

§ 21. OFFICIAL BONDS. APPOINTMENT OF SUBORDINATE OFFICERS.] Each commissioner, before entering upon the duties of his office, shall give bond, payable to the governor of the state, for the use and benefit of said city, in the sum of three thousand dollars, for the faithful discharge of his duty, with two or more good and sufficient sureties to be approved by the judge of the county, and shall in addition to taking the oath prescribed by the constitution of the state, also take an oath that he is not under any direct or indirect obligation to appoint or elect any person to the office of policeman or fireman, or any other office, position or employment under said government. The said commissioners shall by a majority vote

of all the commissioners elected under this act have the power to appoint all officers and subordinates in all of the departments of said city, and to suspend and to discharge the same for cause, at will, under the limitations hereinafter provided. Each commissioner elected under the provisions of this chapter shall qualify as provided by this section within ten days after the delivery to him of the certificate of his election.

§ 22. POWERS OF COMMISSION.] The president of said board shall have the right to vote, as a member thereof, on all questions which may arise. Said board of commissioners shall have the power to summon and compel the attendance of witnesses, and the production of books and papers before them, whenever it may be necessary for the more effective discharge of their duties; and shall have the power to punish for contempt of said board with the same fines and penalties as the county judge may punish for contempt of the county court. All process necessary to enforce the powers conferred by this section shall be signed by the president of the board, and attested by the city auditor thereof, and shall be served by any member of the police force of said city.

§ 23. CONTROL OVER DEPARTMENTS.] Said board of commissioners so constituted shall have control and supervision over all the departments of such city and to that end shall have power to make all such rules as they may see fit and proper, concerning the organization, management and operation of such departments; and shall have power, under such rules and regulations as they shall make, to appoint, and, for cause which to said board shall seem sufficient, and after an opportunity to be heard, to discharge all employes, including the chiefs of the departments respectively. Said commissioners shall have sole authority to pass and adopt all such rules and regulations concerning all of the departments of such city and the other agencies created by them for the administration of its affairs.

§ 24. DEPARTMENTS OF ADMINISTRATION.] In addition to the powers aforesaid, the said commissioners shall have the right, and it shall be their duty, by a majority vote of all the said commissioners elected, to designate from among their members one commissioner, who shall be known as "police and fire commissioner," and who shall have under his special charge the enforcement of all police regulations of such city and general supervision over the fire department of such city; and one commissioner to be known as the "commissioner of streets and of public improvements," who shall have under his special charge the supervision of streets and alleys of such city, and be charged with the duty of lighting such streets, and keeping the said streets and alleys in clean and sanitary condition, and with the enforcement of all rules and regulations necessary to that end, for the preservation of the health of the inhabitants of such city, and who shall also have under his special charge the supervision of all public improvements, and shall see

that all contracts therefor are faithfully complied with, and that the conditions of any grant of any franchise or privilege are faithfully complied with and performed; and one commissioner to be known as the "waterworks and sewerage commissioner," who shall have under his special charge the waterworks and sewerage departments of such city, and shall see to the enforcement of all regulations with respect to said departments, and with respect to all the revenues pertaining thereto; and one commissioner who shall be known as the "commissioner of finance and revenue," who shall have under his special charge the enforcement of all laws for the assessment and collection of taxes of every kind and the collection of all revenues belonging to such city, from whatever source the same may be derived; and who shall also examine into and keep informed as to the finances of such city.

§ 25. EXECUTIVE OFFICER. FINANCIAL STATEMENT, PUBLISHED WHEN.] The president of said board of commissioners shall be the executive officer of said city, and shall see that all the laws thereof are enforced. The commissioner named at the head of each department shall audit all accounts against it, but before payment they shall be acted upon and approved by at least three members of said board of commissioners. Said board shall require a statement to be published in January, April, July and October of each year, in the official newspaper of said city, showing a full, clear and complete statement of all the taxes and other revenues collected and expended, indicating the respective sources from which the moneys are derived, and also indicating the disposition made thereof. All legislative sessions of said board, whether regular or called, shall be open to the public.

§ 26. SPECIAL POLICE, AUTHORITY TO APPOINT.] Whenever the president of the board of city commissioners shall deem it necessary, in order to enforce the laws of the city, or to avert danger, or protect life or property, in case of a riot or any outbreak, or calamity or public disturbance, or when he has reason to fear any serious violation of law or order, or any outbreak, or any other danger to said city or the inhabitants thereof, he shall summon into service, as a special police force, all, or as many of the citizens as in his judgment and discretion may be necessary and proper; and such summons may be by proclamation or order, addressed to the citizens generally or those of any ward of the city or subdivision thereof, or such summons may be by personal notification. Such special police, while in service, shall be subject to the orders of the president of the board of city commissioners, shall perform such duties as he may require, and shall have the same power while on duty as the regular police force of said city, and any person so summoned, and failing to obey or appearing and failing to perform any duty that may be required by this act, shall be fined in any sum not exceeding one hundred dollars.

§ 27. DISABILITY OF PRESIDENT OF COMMISSION, PROCEDURE.] In case the president of said board is unable to perform the duties of his office by reason of temporary or continued absence or sickness, the said board shall appoint by ballot, by a majority vote of all the members thereof, one of their number to act in his stead, whose official designation shall be "acting president of the board of city commissioners," and the commissioner so appointed shall be invested with all the powers and shall perform all the duties of the president of said board during such absence or sickness, and shall receive the salary of the president during such vacancy in lieu of his own regular salary; provided, that it shall continue for ten days or longer, and during that time the president shall receive no salary.

§ 28. REGULAR MEETINGS.] Said board of commissioners shall meet at least once every week in regular meeting, at such time as shall be fixed by said board, at the city hall or other designated place in such city, to consider and take under advisement and act upon, such business as may come before them. A majority of such board as appointed and elected shall constitute a quorum for the transaction of all business, but no action of said commissioners shall be effective unless upon a vote of a majority of such quorum; and no final action shall be taken in any matter concerning the special department of any absent commissioner unless such business has been made a special order of the day, or such action is taken at a regular meeting of the board. Special meetings may be called by the president of such board, or by any two members thereof, at any time, to consider such matters as shall be mentioned in the call of such meeting, and written notice thereof shall be given to each member of said board.

§ 29. ORDINANCES.] The board of city commissioners of such city shall be vested with the power and charged with the duty of making all laws or ordinances not inconsistent with the constitution and laws of this state, touching every object, matter and subject within the local government instituted by this act. Every ordinance imposing any penalty, fine, imprisonment or forfeiture for a violation of its provisions shall, after the passage thereof, be published in four issues of the official paper and proof of such publication by the printer or publisher of such newspaper made before any officer authorized to administer oaths, and file with the clerk of the board of commissioners or any other competent proof of such publication shall in all courts be conclusive evidence of the legal publication and promulgation of such ordinances. Ordinances passed by the board of commissioners and requiring publication, shall take effect and be in force from and after the fourth publication thereof, unless it be otherwise expressly provided for in such ordinance. Ordinances passed by the board of commissioners and not requiring publication, shall take effect and be in force from and after their passage, unless it shall therein otherwise expressly be provided.

§ 30. ENACTING CLAUSE.] The style of all ordinances shall be "Be it ordained by the board of city commissioners of the city of .....," but said caption may be omitted when such ordinances are published in book form, or are revised and digested.

§ 31. OFFICERS, APPOINTMENT OF.] The board of city commissioners in all cities, at their first meeting after their qualification or as soon thereafter as possible, shall appoint the following officers, to wit: A treasurer, auditor, attorney, one or more assessors, a physician, street commissioner, chief of the fire department, a board of public works, one or more policemen, and such other officers or boards as the board of city commissioners may deem necessary; provided, that the board of city commissioners, by a majority vote, may dispense with the offices which in its judgment are unnecessary.

§ 32. SALARIES, HOW FIXED.] The board of city commissioners shall by ordinance provide such salary or compensation for the officers and employes of the city as it shall deem proper. The board of city commissioners shall, at its first regular meeting in February, fix the amount of the salary which shall be received by every officer entitled to a salary, who may be appointed during the ensuing year, which shall not be increased or diminished during his term of office, and which shall be paid out of the city treasury at the end of each month. All salaries heretofore fixed or established by law shall be and remain the salaries of such officers until the board of city commissioners shall otherwise determine; provided, however, that where any new city shall have been incorporated and officers thereof appointed, the board of city commissioners may at any regular meeting, during the term of office of such officer, declare and fix the amount of compensation they shall receive.

§ 33. VACANCIES.] When any officer shall remove from the city or any such officer shall refuse or neglect for ten days after official notification of his appointment to qualify and enter upon the discharge of the duties of his office, the office shall be deemed vacant. Whenever a vacancy shall occur in any office to be filled by appointment the same proceedings shall be had to fill such vacancy as are provided for in case of an appointment in the first instance.

§ 34. VACANCIES, ELECTIONS TO FILL.] Special elections to fill vacancies or for any other purpose shall be held and conducted by the inspectors and judges of election of the several precincts in the same manner and the returns thereof shall be made in the same form and manner as of the general municipal elections, and within such time as is prescribed by law.

§ 35. TENURE OF OFFICE.] Every person elected or appointed to fill a vacancy shall hold his office and discharge the duties thereof for the unexpired term.

§ 36. OATH OF OFFICE.] Every person elected or appointed to any office shall, before he enters upon the discharge of the duties

thereof, take and subscribe the oath of office provided for by the constitution, and file the same with the city auditor within ten days after notice of his election or appointment; and in case of his failure to do either the office shall be deemed vacant.

§ 37. BONDS, WHAT OFFICERS GIVE.] The treasurer, auditor, justice of the peace, constable, and such other officers as the board of city commissioners may direct, shall, before entering upon the discharge of the duties of their respective offices, execute and deliver to the city a bond in such sum as the board of city commissioners may determine, with two or more sureties, conditioned for the faithful discharge of the duties of their respective offices, and with such other conditions as the board of city commissioners may prescribe; the board of city commissioners may at any time require new and additional bonds of any officer. All bonds must be approved by the president of the board of city commissioners, and when so approved shall be filed in the office of the city auditor within ten days after the officer executing the same shall have been notified of his appointment, and when so approved and filed shall be recorded by the city auditor in a book kept for that purpose; such auditor shall annex to each such record a certificate that the same is a true copy of the original, and such record shall be prima facie evidence of the contents of such bond and in the absence of the original may be used as evidence in all courts. Justices of the peace and constables shall also give a bond as required by statute.

§ 38. REMOVAL FROM OFFICE.] Every person appointed to any office may be removed therefrom by a majority vote of all the members of the board of city commissioners, but no such officer shall be removed except for cause nor unless charges are preferred against him and an opportunity given him to be heard in his defense. The board of city commissioners may compel the attendance of witnesses and the production of papers when necessary for the purpose of such hearing, and shall proceed within ten days after the charges are filed with the city auditor to hear and determine the case upon its merits. The president of the board of city commissioners may suspend any officer against whom charges have been preferred until the disposition of the same and appoint an officer to fill the vacancy temporarily until the charges have been disposed of. Any officer appointed by the president of the board of city commissioners without confirmation under the provisions of this chapter may be removed by him when he deems it for the best interest of the city.

§ 39. CITY AUDITOR, POWERS AND DUTIES.] The city auditor shall have the care and custody of the corporate seal and all papers and records of the city. It shall be his duty to attend all meetings of the board of city commissioners and keep a full record of their proceedings; to record all ordinances and bonds in a book kept for that purpose; to keep a record of all licenses granted, which record

shall at all reasonable times be open to inspection by the public; to carefully preserve all receipts filed with him and draw and sign all orders upon the treasury, except as otherwise herein provided, in pursuance of an order or resolution of the board of city commissioners, and keep a full and correct account thereof in books provided for that purpose. He shall have such power and authority and perform such duties as auditors of cities and villages may be required to perform under the general laws. He shall keep an accurate account with the treasurer and charge him with all tax lists presented to him for collection and all sums of money paid into the treasury. He shall be ex-officio secretary of the board of public works and shall perform such duties as may be required of him by the board of city commissioners. Within thirty days after the close of each fiscal year he shall make and cause to be published in the city official paper a financial statement showing the receipts and disbursements on account of each fund during the last preceding year. Copies of any and all books, papers, documents or instruments duly filed and kept in his office and transcripts from the records of the proceedings of the board of city commissioners, certified by him under the corporate seal of the city, shall be evidence in all courts and places in like manner and with the same force and effect as if the originals were produced. He shall also have power to administer oaths and affirmations authorized to be taken by and under these statutes. Every such auditor may with the consent and approval of the board of city commissioners in writing appoint a deputy and shall file such appointment in his office; such deputy shall aid in the performance of the duties under his direction and in case of his absence or disability or of a vacancy in his office shall perform all such duties during such absence, disability or the continuance of such vacancy; and every such auditor and his sureties shall be liable upon his official bond for the acts of such deputy.

§ 40. CITY ATTORNEY. ASSISTANT.] The city attorney shall conduct all the law business of the city and of the departments thereof and all other law business in which the city shall be interested; he shall, when requested, furnish written opinions upon the subjects submitted to him by the board of city commissioners, or any other department. He shall keep a docket of all the cases to which the city may be party in any court of record, in which shall be briefly entered all steps taken in such cause, which docket shall at all reasonable hours be open to public inspection. It shall also be his duty to draft all ordinances, bonds, contracts, leases, conveyances and such other instruments as may be required by the officers of the city; to examine and inspect tax and assessment rolls and all other proceedings in reference to the levying and collection of taxes and assessments, and to perform such other duties as may be prescribed by the board or ordinances. He may, with the consent and approval

of the board of commissioners, appoint an assistant who shall have power to do all the acts required by law of the city attorney; provided, that he shall be responsible to the city for the acts of such assistant, and that the city shall not be liable for nor have any authority to pay compensation to such assistant.

§ 41. TREASURER, POWERS AND DUTIES.] The city treasurer shall receive all monies belonging to the city, keep an accurate account of the same in suitable books prepared for that purpose, and pay over the money in his hands according to the law. He shall keep a detailed account of the money received and disbursed by him in such manner as the board of city commissioners shall direct; his books shall at all reasonable times be open to inspection by any voter of the city; he shall make a report to the board of city commissioners each month and as much oftener as required, which report shall embrace a statement of the receipts and disbursements in his office, and ten days preceding every biennial election he shall make and file in the city clerk's office a full and minute report of all the monies received and disbursed by him, of all tax certificates, vouchers and other effects of pecuniary value in his possession and of all other transactions relating to his office from the date of the like report of his predecessor to the date of the report required to be made out by him. He shall keep an accurate account of each of the separate funds in his custody. Except as herein otherwise provided he shall have such power and authority and perform such duties as treasurers in villages, cities and towns are required to perform under these statutes. He shall receive no fees or per diem except the salary fixed by the board of city commissioners prior to his election, but all fees collected by him shall be paid into the city treasury at the end of each month.

§ 42. ADDITIONAL DUTIES OF AUDITOR.] The auditor shall, on or before the first day of October of each year, file with the president of the board a detailed statement of the expenses of the city and the wards thereof during the last fiscal year, and such statement shall also contain an estimate of the expenses of the fiscal year and the income for that year from sources other than taxation. He shall countersign all contracts made with the city if the necessary funds shall have been provided to pay the liability that may be incurred thereunder and no such contract shall be valid until so countersigned. He shall make a list of all certificates for the payment of which special taxes are to be levied in each year in time for the same to be inserted in the tax roll in the form of a schedule of special taxes, and certify the correctness of the same, and such certified schedule shall be prima facie evidence of the legality and regularity of the taxes levied in pursuance thereof; but no irregularity in the making of such lists shall invalidate any such special tax. He shall report monthly, in writing, to the board of city commissioners the condition of the several funds of the city and of the condition of all outstanding

contracts and claims which may be payable out of each fund. He shall examine and countersign all city orders before the same shall be valid, but shall not countersign any order before the money is in the treasury to pay the same. He shall examine all claims presented against the city, whether founded on contract or otherwise, and determine as to each whether it is properly itemized and sworn to; if on contract, whether the items charged are correct, whether such claim was incurred by proper authority and generally determine its correctness. For the above purposes he may swear witnesses to take testimony. If he does not find any objection to any claim he shall mark his approval thereon, if he disapproves or approves in part or disapproves in part, he shall report to the board of city commissioners his reasons therefor and in all cases shall report the evidence taken by him. No claim shall be considered by the board of city commissioners until it shall have been thus examined and reported on by the auditor. He shall examine each month the treasurer's accounts as reported and kept by him and report as to the correctness of the same, and also any violation by the treasurer of his duties in the manner of keeping his accounts or disbursing monies. The auditor shall procure a claim book at the expense of the city in which all claims against it shall be entered as fast as the same are filed; said books shall be provided with an index and be in such form as to provide for the entry of the name of the claimant, number of claim, date of filing, amount claimed, date of the report of the auditor, whether approved and for how much, date of allowance or disallowance by the board of city commissioners, amount allowed, date of the order issued to pay the same, number of such order and date of the cancellation of the same. The auditor shall perform the duties of a member of the board of public works and such other duties as are required of him under the provisions of this chapter or by the board of city commissioners. In case the office of auditor is dispensed with, the duties pertaining thereunto shall be discharged by such officer or officers or board as the board of city commissioners shall designate by resolution or ordinance.

§ 43. OFFICIAL NEWSPAPERS.] The board of city commissioners, at its first meeting or as soon thereafter as may be, shall designate one or more newspapers printed in the city in which shall be published all the ordinances, notices and all other proceedings by law to be published, and said board of city commissioners may establish by ordinance such rates for printing and publishing as to them may seem just and proper; provided, that the price of such printing shall not exceed the legal rate for like work as the same now is or may be established by law.

§ 44. CERTIFICATE OF OFFICIAL PUBLICATION.] When any ordinance, notice, resolution or other proceeding shall have been published, a copy of such publication, together with the affidavit of the printer or his foreman stating the length of time the same has

been published, shall be filed with the city clerk and such affidavit shall be conclusive evidence of the publication thereof and the bill for such publication shall not be audited until such affidavit is so filed.

§ 45. DUTIES OF OFFICERS GENERALLY.] All other officers elected or appointed under and by virtue of the authority of this chapter shall perform such duties as are required to be performed by like officers under these statutes and also such as are prescribed by the board of city commissioners.

§ 46. RULES OF COMMISSIONERS. QUORUM. CONFIRMATIONS.] The board of city commissioners shall determine the rules of its own proceedings. A majority of the members thereof shall constitute a quorum, but a smaller number may adjourn; their sessions shall be open to the public; the ayes and nays may be required by any member; and on the adoption of any ordinance or resolution assessing or levying taxes or for the appropriation or disbursement of money or creating any liability or charge against the city or any fund thereof, the vote shall be taken by ayes and nays, and every such vote shall be entered at length upon the journal. The board of city commissioners shall be the judges of the election and qualifications of its own members, and may punish them or other persons present by fine for disorderly behavior; may compel the attendance of its members upon its meetings, and may employ the police of the city for that purpose; may fine or expel any member for neglect of duty as such member or for unnecessary absence from sessions of the board of city commissioners. At all confirmations by the board of city commissioners the vote shall be taken viva voce and shall be recorded by the clerk in the journal; a concurrence of a majority of all the members shall be necessary for a confirmation.

§ 47. CONTROL OF THE FINANCES. AUTHORITY OF COMMISSIONERS.] The board of city commissioners shall have the management and control of the finances and of all the property of the city, except as herein otherwise provided, and shall likewise, in addition to all other powers herein and elsewhere in these statutes vested in them, have full power and authority to enact, ordain, establish, publish, enforce, alter, modify, amend and repeal all such rules, by-laws and regulations for the government and the good order of the city, for the benefit of its trade and commerce, and health of the inhabitants thereof, for the prevention of crime and for carrying into effect the powers vested in said board as they shall deem expedient; such board shall have the power to declare and impose penalties and enforce the same against any person or persons who may violate any of the provisions of such ordinances, by-laws or regulations; and such ordinances, rules, by-laws, regulations shall have the force of law, provided that they be not repugnant to the constitution of the United States or of this state or of the laws thereof, and for the aforesaid purposes such board of

city commissioners shall have authority by ordinance, resolution, by-law or regulation.

§ 48. GENERAL POWERS OF COMMISSIONERS.] The board of city commissioners shall have power:

1. To control the finances and property of the corporation, to appropriate money for corporate purposes only, and provide for the payment of debts and expenses of the corporation.

2. To levy and collect taxes for general and special purposes on real and personal property.

3. To fix the amount, terms and manner of issuing and revoking licenses.

4. To borrow money on the credits of the corporation for corporation purposes, and to issue bonds therefor in such amounts and form and on such conditions as it shall prescribe, but no city shall become indebted in any manner or for any purpose to an amount, including existing indebtedness, exceeding five per cent of the taxable property therein, as determined by the last preceding assessment; provided, that any incorporated city may, by a two-thirds vote at any special or general election increase such indebtedness to an amount equal to three per cent of such assessed valuation beyond said five per cent limit and may issue bonds therefor; provided, further, that any city, when authorized by a majority vote at a general or special election, may become indebted in any amount not exceeding four per cent of such assessed value without regard to the existing indebtedness of such city, for the purpose of constructing or purchasing waterworks for the purpose of furnishing a supply of water to the inhabitants of such city, or for the purpose of constructing sewers, but for no other purpose whatever, and such city may issue bonds therefor; provided, further, that no bonds issued under the provisions of this section shall be sold for less than their par value, and the city issuing such bonds shall, at or before the time of issuing the same or incurring the indebtedness for which the same are to be issued, provide for the collection of a direct annual tax sufficient to pay the interest on such debt or such bond when it falls due, and to pay and discharge the principal thereof when the same becomes due, and such provision for the collection for such annual tax shall be irrepealable until such debt is paid; provided, further, that none of the hereinbefore mentioned bonds shall be issued either for special or general purposes, except as by law otherwise provided, unless at an election after twenty days' notice in a newspaper published in the city, stating the purpose for which said bonds are to be issued and the amount thereof, the legal voters of the city shall, by a majority vote, determine in favor of issuing such bonds: provided, further, that no bonds issued under the provisions of this chapter shall be issued for a longer period than twenty years.

5. To lay out, open, alter, establish, widen, grade, pave, park or otherwise improve streets, alleys, avenues, sidewalks, wharves,

parks and public grounds and vacate the same, and to regulate the planting of trees thereon; to prevent and remove obstructions and encroachments upon the same; to provide for the lighting of the same, and to provide for the furnishing of lights to the inhabitants of the city.

6. To provide for the cleaning and health of the city.

7. To regulate the laying of gas or watermains and pipes, and the building, laying or repairing of sewers, tunnels and drains, and erecting gas or electric light plants; provided, however, that any company heretofore organized under the general laws of this state or any association of persons organized or which may hereafter be organized for the purpose of manufacturing illuminating gas or electricity, to supply cities or the inhabitants thereof with the same, shall have the right, by the consent of the board of city commissioners, subject to existing rights, to erect gas or electric light works and lay down pipes or string wires on poles in streets or alleys of any city in this state, subject to such regulations as such city may by ordinance prescribe.

8. To regulate the use of sidewalks and all structures thereunder; and to require the owner or occupant of any premises to keep the sidewalks in front of or along the same, free from snow or other obstruction.

9. To regulate and prevent the throwing or depositing of ashes, offal, dirt, garbage or any other offensive matter, in, and to prevent injury to any street, avenue, alley or public ground.

10. To provide for and regulate crosswalks, curbs and gutters.

11. To regulate and prevent the use of streets, sidewalks and public grounds for signs, signposts, awnings, telegraph or telephone poles, horse troughs, racks, posting hand bills and advertisements.

12. To regulate and prohibit the exhibition or carrying of banners, placards, advertisements or hand bills in the streets or public grounds, or upon the sidewalks.

13. To regulate and prevent the flying of flags, banners or signs across the streets or from houses.

14. To regulate traffic and sales upon the streets, sidewalks and public places.

15. To regulate the speed of horses and other animals, vehicles, cars and locomotives within the limits of the corporation.

16. To regulate the numbering of houses and lots.

17. To name and change the name of any street, avenue, alley or other public place.

18. To permit, regulate or prohibit the locating, constructing or laying of a track of any horse or other street railway in any street, alley or public place; but such permission shall not be for a longer time than fifty years.

19. To provide for and change the location, grade and crossing of any railroad.

20. To require railroad companies to fence their respective railroads, or any portion of the same, and construct cattle guards, crossings of streets and public roads and keep the same in repair within the limits of the corporation.

21. To require railroad companies to keep flagmen at railroad crossings of streets and provide protection against injury to persons and property; to compel railroads to raise or lower their tracks to conform to any grade which may at any time be established by such city, and where such tracks run lengthwise of such street, alley or highway, to keep their tracks on a level with the street surface and so that such tracks may be crossed at any place on such street, alley or highway; to compel and require railroad companies to make and keep open and to keep in repair, ditches, drains, sewers and culverts along and under their tracks, so that filthy and stagnant pools of water cannot stand on their grounds or right-of-way and so that the natural or artificial drainage of adjacent property shall not be impeded.

22. To construct and keep in repair bridges, viaducts and tunnels, and to regulate the use thereof.

23. To license, tax, regulate, suppress and prohibit hawkers, peddlers, pawnbrokers, keepers of ordinaries, theatricals and other exhibitions, shows and amusements, ticket scalpers and employment agencies, and to revoke such license at pleasure; provided, however, that the provisions of this section with reference to hawkers and peddlers shall not apply to persons selling or offering for sale the products raised or grown on lands within this state.

24. To license, tax and regulate hackmen, draymen, omnibus drivers, carters, cabmen, porters, expressmen, watermen, and all others pursuing like occupations, and to prescribe their compensation.

25. To license, tax, regulate and restrain runners for stages, cars, public houses or other things or persons.

26. To license, regulate, tax or prohibit and suppress billiard, bagatelle, pigeonhole, pin alleys, ball alleys, or any other tables or implements kept or used for a similar purpose in any place of public resort.

27. To license, tax and regulate plumbers and the business of plumbing, and to provide the manner in which the plumbing shall be done, and for the inspection thereof, and the manner in which the connections thereof with the sewers and the watermains of the city may be made.

28. To establish markets and market houses, and to provide for the regulation and the use thereof.

29. To provide for the place and manner of sale of meats, poultry, fish, butter, cheese, lard, vegetables, flour, meat and other provisions, and to regulate the selling thereof.

30. To regulate the sale of bread in the city, and prescribe the weight and quality of the bread in the loaf.

31. To provide for and regulate the inspection of meats, poultry, fish, butter, cheese, lard, vegetables, flour, meat and other provisions, and to license and regulate the sale of milk, provide for the inspection of same, and all dairies and premises wherever situated, from which any milk is offered for sale in such city, and to prohibit the sale of impure or diseased milk.

32. To regulate the inspection, weighing and measuring of lumber, firewood, coal, hay and any articles of merchandise.

33. To provide for the inspection and sealing of weights and measures.

34. To enforce the keeping and use of proper weights and measures by vendors.

35. To regulate the construction, repairs and use of vaults, cisterns, areas, hydrants, pumps, sewers and gutters.

36. To regulate places of amusement.

37. To prevent intoxication, fighting, quarreling, dog fights, cock fights and all disorderly conduct.

38. To regulate partition fences and party walls.

39. To prescribe the thickness, strength and manner of constructing stone, brick and other buildings and for the construction of fire escapes therein, and to provide for the inspection of all buildings within the city limits.

40. To prescribe the limits within which wooden buildings shall not be placed or erected or repaired without permission, and to direct that all and any buildings within said limits which shall be known as the fire limits, when the same shall have been damaged by fire, decay or otherwise, to the extent of fifty per cent of the value, shall be torn down or removed, and to prescribe the manner of ascertaining such damages, and to provide for the removal of any structure or building erected contrary to such prescription, and to declare each day's continuance of such structure or building a separate offense, and to prescribe penalties therefor; and define fire proof material and by ordinance provide for issuing building permits and appointment of building inspectors.

41. To prevent the dangerous construction and condition of chimneys, fire places, hearths, stoves, stovepipes, ovens, boilers and apparatus used in and about any building or manufactory, and to cause the same to be removed or placed in a safe condition when considered dangerous.

42. To regulate and prevent the carrying on of manufactories dangerous in causing and promoting fires.

43. To prevent the deposit of ashes in unsafe places, and to cause all such buildings and inclosures as may be in a dangerous state to be put in a safe condition.

44. To erect engine houses and provide fire engines, hose carts, hooks and ladders, and other implements for the prevention and extinguishment of fires, to provide for the use and management of the same by volunteer fire companies or otherwise.

45. To regulate and prevent the storage of gunpowder, tar, pitch, resin, coal oil, benzine, turpentine, hemp, cotton, nitroglycerine, petroleum, or any of the products thereof, and other combustible or explosive material, and the use of lights in stables, shops and other places, and the building of bonfires; also to regulate and restrain the use of fireworks, firecrackers, torpedoes, roman candles, skyrockets and other pyrotechnic displays.

46. To provide for the inspection of steam boilers.

47. To establish and erect a city jail, house of correction and work house for the confinement and reformation of disorderly persons convicted of violating any city ordinance, and make rules and regulations for the government of the same, and appoint necessary jailors and keepers.

48. To use the county jail for the confinement or punishment of offenders, subject to such conditions as are imposed by law and with the consent of the board of county commissioners; and to regulate the police of the city and pass and enforce all necessary police ordinances.

49. To prevent and suppress riots, routs, affrays, noises, disturbances and disorderly assemblies in any public or private place.

50. To prohibit and punish cruelty to animals.

51. To restrain and punish vagrants, mendicants and prostitutes.

52. To declare what shall be nuisance and abate the same, and impose fines upon persons who may create, continue or suffer nuisances to exist.

53. To erect and establish hospitals and medical dispensaries and control and regulate the same, and provide and enforce quarantine regulations against all contagious and infectious diseases.

54. To do all acts and make all regulations which may be necessary or expedient for the promotion of health or for the suppression of diseases.

55. To establish and regulate cemeteries within or without the corporation, and acquire lands therefor by purchase or otherwise, and cause cemeteries to be removed, and prohibit their establishment within one mile of the corporation.

56. To regulate, restrain and prevent the running at large of horses, mules, cattle, swine, sheep, goats and geese; and provide for the establishment and maintenance of public pounds for the impounding of any stock running at large, or tethered in any street in the city in violation of its ordinances, and establish procedure for the impounding and discharging of stock so impounded and make the expenses thereof and fines imposed for the violation of ordinances passed under this subdivision, a lien upon such stock, and provide for the sale thereof to satisfy such liens.

57. To license, regulate or prohibit the running at large of dogs and injuries and annoyances therefrom, and to authorize their sum-

mary destruction when at large contrary to any such prohibition or regulation.

58. To direct the location and regulate the management and construction of packing houses, renderies, bone factories, slaughter houses, soap factories, foundries, livery stables and blacksmith shops within or within one mile of the limits of the corporation.

59. To prohibit any offensive or unwholesome business or establishment within, or within one mile of the limits of the corporation.

60. To compel the owner of any grocery, cellar, stable, pigsty, privy, sewer or other unwholesome or nauseous house or place, to cleanse, abate or remove the same, and to regulate the location thereof.

61. To provide for the taking of the city census, but no city census shall be taken oftener than once in three years.

62. To provide for the erection and care of all public buildings necessary for the use of the city.

63. To extend by condemnation or otherwise, any street, alley or highway over or across or to construct any sewer under or through any railroad tracks, right-of-way, or land of any railroad company within the corporate limits.

64. The city council shall have the power to grant the use of or right to lay down any railroad tracks in any street of the city to any railroad company.

65. To tax, license and regulate auctioneers, lumber yards, public scales, money changers and brokers.

66. To prevent and regulate the rolling of hoops, playing of ball, flying of kites, or any other amusement or practice having a tendency to annoy persons passing in the streets or on the sidewalks, or to frighten teams or horses.

67. To regulate or prohibit the keeping of any lumber yard and the placing or piling or selling of any lumber, timber, wood or other combustible material within fire limits of the city.

68. To provide by ordinance that all the paper, printing, stationery, blanks, fuel and all other supplies needed for the use of the city shall be furnished by contract let to the lowest responsible bidder.

69. To tax, license and regulate second hand and junk stores and to forbid their purchasing or receiving from minors without the written consent of their parents or guardians, any article whatever, and to prescribe punishment for the violation thereof.

70. To purchase, erect, lease, rent, manage and maintain any system or part of system of waterworks, hydrants and supply of water, telegraphing, fire signals or fire apparatus that may be of use in the prevention and extinguishment of fires, and to pass all ordinances, penal or otherwise, that shall be necessary for the full protection, maintenance, management and control of the property so leased, purchased or erected.

71. To redistrict the city into wards, and prescribe the boundaries thereof.

72. To adopt such other ordinances, not repugnant to the constitution and laws of the state, as the general welfare of the city may demand.

73. To pass all ordinances, rules and make all regulations proper or necessary to carry into effect the powers granted to cities, with such fines, penalties or forfeitures as the city council may deem proper; provided, that no fine or penalty shall exceed one hundred dollars and no imprisonment shall exceed three months for one offense.

§ 49. EXERCISE OF POWER THROUGH ORDINANCE.] When by this chapter the power is conferred upon the board of commissioners to do and perform any act or thing, and the manner of exercising the same is not specifically pointed out, the board of commissioners may provide by ordinance the details necessary for the full exercise of such power.

§ 50. POWERS OF COMMISSIONER OF PUBLIC HEALTH.] The commissioner of public health shall have all the power and authority heretofore given or which hereafter may be given to boards of health by any general law, and it shall be his duty to provide such additional rules and regulations as shall be proper and necessary for the preservation of the health of the people of the city, to prevent the spread of contagious diseases and to cause the removal of all objects detrimental to the health of such people and to enforce such rules and regulations as are hereinafter provided.

§ 51. HEALTH REGULATIONS.] All rules and regulations prepared by said commissioner shall be by him reported to the board of city commissioners, and if the board of city commissioners shall approve the same by a vote of the majority of its members, such rules and regulations shall have the force and effect of ordinances, and the violation thereof may be prosecuted and punished as in the case of ordinances.

§ 52. SANITARY RECOMMENDATIONS.] The commissioner of public health shall also from time to time, recommend to the board of city commissioners such sanitary measures to be executed at the public expense, as shall seem to him to be necessary for the preservation of the public health.

§ 53. SALARY OF COMMISSIONER OF PUBLIC HEALTH. ASSISTANTS.] It shall be the duty of the board of city commissioners to fix the salary of said commissioner, which shall be paid out of the city treasury. The commissioner may appoint, subject to confirmation by the president of the board of city commissioners, such assistants as may be necessary, and all such appointees shall receive such salary or compensation as the board of city commissioners may fix.

§ 54. AUTHORITY TO INSPECT PREMISES.] The commissioner of public health or any person acting under him shall have authority

to enter into and examine at any time all buildings, lots and places of any description within the city for the purpose of ascertaining the condition thereof so far as the public health may be affected thereby, and any person refusing to allow entrance into or upon his premises at reasonable hours for such purpose, shall, on conviction thereof, be fined not less than ten dollars nor more than one hundred dollars; and in all cases in which the commissioner shall deem it necessary for the protection of the health of the city to abate or remove any nuisance, source of filth, or cause of sickness which shall be found on private property, he shall cause a notice to be served upon the owner or occupant thereof, requiring him to remove the same at his own expense within a reasonable time, not less than twenty-four hours; and if said owner or occupant shall refuse or neglect to comply with such notice, or if such nuisance, source of filth, or cause of sickness exist on the property of non-resident owners or upon property the owners of which cannot be found, the commissioner shall cause the removal of such nuisance, source of filth, or cause of sickness under his direction at the expense of the city, and the costs thereof shall be charged against the lots, pieces or parcels of land upon which said work has been done, and shall be assessed against said property in the manner provided for the assessment of other special taxes.

§ 55. CONTAGIOUS DISEASES. DUTIES OF PHYSICIANS.] It shall be the duty of every physician practicing in any city which has adopted this charter to report in writing to the commissioner of public health every patient he shall have who is sick with smallpox, scarlet fever, diphtheria, typhoid fever, Asiatic cholera, or any other dangerous contagious disease, within twenty-four hours after he shall ascertain or suspect the nature of such disease. The report shall be in such form as may be prescribed by the state board of health and shall state the name, sex, age and place of residence of the person whose sickness is reported, the nature of the disease and such additional facts as said board may prescribe. Any practicing physician who shall neglect or refuse to perform the duties required of him by this section or who shall make a false return of the facts required, shall be punished by a fine not less than twenty-five dollars nor more than one hundred dollars for each offense, or by imprisonment in the county jail for a period not exceeding sixty days, or by both fine and imprisonment.

§ 56. REPORTS TO STATE BOARD OF HEALTH.] The commissioner of public health shall also discharge such duties, not herein enumerated, as may from time to time be imposed upon him by the board of city commissioners by ordinance or resolution, and shall make such reports to the state board of health and generally perform such duties as are or may be required of health officers by these statutes.

§ 57. DUTIES OF PEACE OFFICERS AS TO HEALTH REGULATIONS.] It shall be the duty of the members of the police force of the city and all magistrates and other civil officers and all citizens to aid to the utmost of their power the commissioner of public health in the discharge of his duties, and on his requisition it shall be the duty of the chief of police to serve or detail one or more of the policemen to serve the notices issued by said commissioner and to perform such other duties as he may require.

§ 58. CITY FUNDS, CONTROL OF.] All funds in the city treasury, except school funds, funds created and set apart for the payment of interest and principal of the debt of the city, and funds collected on special assessments, shall be under the control of the board of city commissioners and be drawn out on the order of the president of the board of city commissioners, duly countersigned by the auditor, when authorized by a vote of the board of city commissioners. All orders drawn upon the treasurer shall specify the purposes for which they are drawn, and be payable out of any funds in the treasury not otherwise appropriated, and shall be payable to the persons in whose favor they are drawn and may be transferred by indorsement.

§ 59. TREASURER'S LIABILITY.] The city treasurer shall not pay out the funds in his hands which shall be appropriated by law for any special purpose except for the purpose for which such funds are appropriated, any direction of the board of city commissioners to the contrary notwithstanding.

§ 60. TREASURER'S STATEMENT.] The treasurer shall, on the first day of each month, deliver to the city auditor a statement showing the condition of the treasury at the close of the preceding month and a statement of all disbursements since the last report.

§ 61. DEPOSITARY OF FUNDS.] The board of city commissioners may designate by resolution the bank or banks where the money belonging to the city shall be deposited, and the security, to be approved by the president of the board of city commissioners and auditor to be given by such bank or banks, and when the money is so deposited the treasurer and his bondsmen shall not be liable for the loss thereof by reason of the failure of such bank or banks, and the interest arising therefrom shall be paid into the treasury; provided, such money shall not be deposited in any bank without this state.

§ 62. INTEREST ON DEPOSITS.] The board of city commissioners may contract with a bank receiving the city deposits for the payment of interest thereon.

§ 63. MEANING OF PHRASES.] Whenever in the laws not repealed by this act the words "town council, city council, or village board" appear, it shall mean board of city commissioners; the word "mayor" or "president" shall mean president of the board of city commissioners.

§ 64. SUCCESSION OF POWERS.] All the provisions of law now in force or which may hereafter be passed by the legislative assembly in relation to the powers, duties or privileges of the president of boards of trustees of towns or villages, or mayors of cities, are hereby granted to the president of the board of city commissioners, and except where inapplicable all the provisions of law now in force or hereafter passed by the legislative assembly in relation to the powers, duties or privileges of town or village trustees, or other municipal boards thereof, or the powers, duties or privileges of city councils are hereby granted to the board of city commissioners provided for in this act; provided, cities incorporated under this act shall for all purposes according to their respective population retain the classification otherwise provided by law.

Approved March 20, 1907.

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## CHAPTER 46.

[S. B. No. 2—Taylor]

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### AMENDMENTS TO CITY CHARTERS.

AN ACT to Amend Section 2740, Article 17, Immediately After Section 1770, Section 2778, Section 2780, Section 2782, Section 2783, Section 2769, Section 2798, Section 2815 and to Repeal Section 2779 of Chapter 30 of the Political Code of the State of North Dakota, Revised Codes of 1905, Relating to Cities.

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

§ 1. AMENDMENT.] Section 2740, revised codes of the state of North Dakota of 1905, be and the same is hereby amended to read as follows:

§ 2740. POWERS OF POLICE OFFICERS.] The chief of police shall perform such duties as shall be prescribed by the city council for the preservation of the peace. All police officers and watchmen of a city shall, within the city limits and for a distance of one and one-half miles in all directions within the state next outside the city limits, perform the duties and exercise the power of peace officers as defined and prescribed by the laws of the state; and shall also have power, and it shall be their duty to serve and execute any warrants, writs, process, order or notice issued to them by a police magistrate or city justices or justice of the peace within said city in any civil or criminal action or proceeding for or on account of a violation of any city ordinances, or in any action or proceeding in which the city is a party or beneficially considered; and in addition thereto shall perform such duties as such be prescribed

by the ordinances of the city, and shall also have power within said limits to serve and execute all writs and process whatsoever issued by said justices in civil actions.

§ 2. AMENDMENT.] Article 17 of chapter 30 be and the same is hereby amended by adding thereto immediately after section 2770, the following:

§ 2770a. In all cases where snow and ice are not removed from sidewalks within the time and in the manner that is now or hereafter may be provided by the ordinances of any city, the same may be removed by or under the direction of the street commissioner, and the necessary expense thereof shall be chargeable against the abutting property. On or before May 1 in each year the street commissioner shall make and file in the office of the city auditor a list of the property chargeable and assessed against each lot and tract separately, and stating the owner's name, so far as known to him. The city auditor shall give notice by publication in the official newspaper of the hearing and confirmation of such report and assessment at the regular June council meeting, notifying all persons objecting thereto to appear and present their objections, such notice to be published twice, once in each week for two consecutive weeks, the last publication to be not less than eight days before the time fixed for the hearing. At the June council meeting or at such later meeting as the hearing and confirmation of such assessment may be adjourned to, the council shall take up and consider said assessment and shall hear any objection thereto or to any part thereof, and after revising and correcting the same, if necessary so to do, shall approve and confirm the same. The city auditor shall thereupon attach to such list his certificate that the same is correct as confirmed by the city council and shall thereupon file such assessment list in his office; and such assessment, with interest and penalties thereon, shall be and remain a paramount lien upon the property upon which such assessment is levied, from the time such assessment list is approved by the city council and shall remain a lien thereupon until fully paid and shall have precedence over all other liens except ordinary taxes to which it shall be subject, and such lien shall not be divested by any judicial sale, and no mistake in the description of the property or in the name of the owner shall obviate such lien, provided the property assessed can be identified by the description in such assessment list. Such assessment shall be certified to the county auditor by the city auditor at the same time and in the same manner that sidewalk assessments are certified by him under the provisions of section 2804, revised codes of 1905.

§ 3. AMENDMENT.] Section 2778 of the revised codes of the state of North Dakota of 1905, be and the same is hereby amended to read as follows:

§ 2778. RESOLUTION DECLARING WORK NECESSARY.] After the plans, specifications and estimates mentioned in the preceding sec-

tion shall have been filed in the office of the city auditor and approved as provided in the preceding section the city council shall by resolution declare such work or improvement (except the construction or alteration of sewers) necessary to be done, such resolution shall refer intelligently to the plans, specifications and estimates therefor, and shall be published twice, once in each week for two consecutive weeks in the official newspaper of the city. If the owners of a majority of the property liable to be specially assessed for such proposed improvement shall not within fifteen days after the first publication of such resolution file with the city auditor a written protest against such improvement, then the majority of such owners shall be deemed to have consented thereto. At the next regular meeting of the city council after the expiration of the time for filing protests against such improvement, the council shall hear and determine the sufficiency and validity of such protests, and if two-thirds of the council shall decide that such protests are insufficient or not well taken, then the city council shall have power to cause such improvement to be made and to contract therefor, and to levy and collect assessments therefor as hereinafter provided, and all such work shall be let by contract to the responsible bidder whose bid is the lowest therefor. In case the work to be done consist of paving or repaving, the city council shall not in its resolution declaring such improvement necessary determine which of the kinds of paving or paving material shall be adopted; but in the call for bids bidders shall be invited to submit bids for one or more of the several kinds of paving or paving material for which the city engineer shall have been directed to file plans and specifications. When the bids shall have been opened and made public they shall be entered on the minutes of the meeting and be carefully preserved by the city auditor, and action on the same shall be deferred for a period of at least five days and another meeting of the council shall be held at least five days after the opening of the bids for the purpose of considering and acting on the same. Notice of the time and place of such future meeting shall be published by the city auditor at least once in the official newspaper of the city at least five days before the date fixed for such meeting. If, after the opening of the bids and before the meeting of the council to consider the same, the owners of a majority of the property liable to be specially assessed for such paving or repaving, shall file with the city auditor a written petition (which may consist of a single petition or several separate petitions signed by the owners of a majority of the property liable to be specially assessed for such improvement, or their authorized agents) indicating that such petitioners are agreed in a preference for any one of the kinds of paving or paving materials for which bids have been invited, then it shall be obligatory upon the city council to cause the paving or repaving to be constructed of the kind of paving material indicated in such petition.

§ 4. REPEAL.] Section 2779 of the revised codes of the state of North Dakota of 1905, be and the same is hereby repealed.

§ 5. AMENDMENT.] Section 2780 of the revised codes of the state of North Dakota of 1905, be and the same is hereby amended to read as follows:

§ 2780. DUTY OF COUNCIL.] The city council shall then cause proposals for said work to be advertised for in the official paper of such city twice, once in each week for two consecutive weeks, which advertisement shall specify the work to be done according to the plans and specifications therefor on file in the auditor's office and shall call for bids therefor upon a basis of cash payment for said work, and state the time within which such bids will be received, and within which such work is to be completed. The city council may also require bidders to state the rate of interest the warrants shall bear (not exceeding seven per cent per annum) which are to be received and accepted by them at par in payment for such work. In case of pavement such proposals may call for bids for one or more kinds of pavement. Bids for such work shall be forwarded to the city auditor of such city securely sealed so as to prevent their being opened without detection, and shall have indorsed upon the outside thereof a statement of what work such proposals are for. Such bids shall be opened by the city council at the expiration of the time limited in said advertisement for receiving the same, which shall be not less than fifteen days after the first publication of said advertisement, or at such other time as the city council may appoint therefor, and if accompanied by a check and bond hereinafter provided for shall be considered, and if not accompanied by such check and bond shall be rejected.

§ 6. AMENDMENT.] Section 2782 of the revised codes of the state of North Dakota of 1905, be and the same is hereby amended to read as follows:

§ 2782. BONDS.] Each bid for any such work shall also be accompanied by a bond running to the city. In case of all improvements except sidewalks, paving and repaving the amount of bidder's bond shall be a sum equal to the full amount of the bid. In case of paving or repaving, the amount of the bond to be required on each bid for different kinds of paving or repaving shall be fixed at a sum equal to at least five per cent of the amount of the bid or such additional sum as the city council may by resolution determine at the time bids are called for; provided, however, that in the case of contracts for the construction of sidewalks the amount of the bond shall be five hundred dollars. Such bidder's bond shall be executed by the bidder or contractor as principal and by a surety company authorized to do business in this state, or by two or more freeholders resident of this state; and if executed by individuals as sureties such sureties must attach to such bond an affidavit of justification, showing that they possess the qualifications required of sureties in arrest and bail and are worth in the

aggregate in property within this state a sum equal to twice the penalty of the bond over and above their exemptions; such bonds shall be made payable to the city and shall be conditioned as follows: That if the principal's bid shall be accepted and the contract for the work of improvement awarded to him, he will, within ten days after the acceptance of his bid or within such further time as the city council shall grant, enter into and execute a contract bond in a sum equal to the amount of the bid and a contract in writing to and with the city, to well and faithfully perform and complete the work for which his bid was accepted in accordance with the plans and specifications therefor and the terms of his bid and within the time required by the terms of such contract; that he will pay for all labor and materials used in such work. Such bonds shall be for the benefit of the city. In case the bidder shall fail to execute a contract bond and a contract as aforesaid for the completion of the work bid for within ten days or such further time as the city council may grant after the acceptance of the bid, then the city council shall be authorized the same as if the bid or bond contained an expressed stipulation to that effect, to cause such work to be done or completed, the work, or contract, with some other contractor to do or complete the work, and in such case may recover in a suit on the defaulting bidder's bond the difference between actual cost to the city of such improvements and the sum which it would cost if the defaulting bidder had complied with his bid. The successful bidder shall, within the time fixed by the city council for executing the contract, file a contract bond in a sum equal to the full amount of the contract with the city auditor. Such contract shall be executed by the bidder or contractor as principal and a surety company authorized to do business in this state, as surety or by two or more freeholders resident of this state, and if executed by individuals as sureties such sureties must attach to such bond an affidavit of justification showing that they possess the qualifications required of sureties in arrest and bail, and are worth in the aggregate in property within this state a sum equal to twice the penalty of the bond over and above their exemptions: such bond shall be made payable to the city and shall be conditioned that he will well and faithfully perform the work bid for in accordance with the terms of and within the time provided for in such contract, and pursuant to the plans and specifications for such work on file in the city auditor's office, and pay for all labor and material used in such work, and that in case of default on the part of the bidder or contractor to perform such work as provided in his contract, the sum named in the bond shall be taken and held to be fixed and liquidated damages in favor of said city, and that the full amount thereof may be recovered from said bidder and his sureties in an action by the city against them on said bonds. Such bonds shall be approved by the city council and shall thereupon be and remain in full force and

effect. Upon the execution of the contract and approval of the contract bond the bidding bond shall be returned. A sufficiency of any bond filed by a bidder shall be determined by the city council at the time of considering bids. If the council shall at any time deem the bond of a contractor insufficient either in form or sufficiency of sureties, it may require the successful bidder or contractor to furnish a new bond to be approved by the mayor and the city council, within such reasonable time as the council may fix and if the bidder or contractor shall fail to furnish such new bond within the time required after notice to him to do so his contract may be canceled and in that event the contractor's bond shall be liable the same as if the contractor had failed to perform his contract.

§ 7. AMENDMENT.] Section 2783 of the revised codes of the state of North Dakota of 1905, be and the same is hereby amended to read as follows:

§ 2783. COUNCIL MAY REJECT BIDS.] The city council shall have the right to reject any and all bids for work to be done under this article, if, in its opinion, the interests of the city will be best subserved by so doing, and readvertise for further bids, but if all such bids are not rejected the contract shall then be awarded to the responsible bidder whose bid is the lowest upon the basis of cash payment therefor, provided such bidder shall have complied with the foregoing requirements; provided, further, that in case the contemplated improvements consist of paving or repaving, the city council may after opening and considering the bids, by resolution, determine the kind or kinds of pavement to be laid, and may then proceed to award a contract or contracts therefor.

§ 8. AMENDMENT.] Section 2769 of the revised codes of the state of North Dakota of 1905, be and the same hereby is amended to read as follows:

§ 2769. DUTY OF AUDITOR.] The city auditor shall keep in his office a book called "sidewalk repair special assessment book," and shall enter such cost so certified by the street commissioner therein, as a special assessment against the lot or parcel of land adjoining such sidewalk, with the name of the owner, if known to him; and at its regular meeting in September of each year, the city council shall review all assessments and hear all complaints against the same, and approve the same as finally adjusted.

§ 9. AMENDMENT.] Section 2798 of the revised codes of the state of North Dakota of 1905, be and the same is hereby amended to read as follows:

§ 2798. PAYMENT OF ONE-FIFTH BY GENERAL TAXATION.] Any city which shall have power under the debt limit provisions of the constitution to create valid obligations to that extent, may, at the option of the city council, provide for the payment of not exceeding one-fifth of the cost of any work hereinbefore provided

for other than sidewalks, opening and widening streets and sewer and water connections from main to curb line, by general taxation of all taxable property in such city, and may contract with reference thereto, and make appropriations and levy taxes therefor in installments annually and extending over the same period as provided for the special assessments for such improvement. Such appropriation and tax levy. if not heretofore included in the annual appropriation ordinance, may be made at any time as the occasion may require and be included in the next annual appropriation and tax levy. Such appropriation and levy, whether made as part of the regular annual appropriation ordinance and tax levy, or made thereafter, shall state the specific improvement for which such tax is levied, and the district in which such improvement is made and the amount thereof shall be credited to and the taxes collected thereunder be turned in to and be deemed a part of the district fund upon which the warrants issued in payment of the improvement are to be drawn.

§ 10. AMENDMENT.] Section 2815 of the revised codes of the state of North Dakota of the year 1905, be and the same is hereby amended to read as follows:

§ 2815. CONNECTIONS WITH SEWER AND OTHER MAINS.] Whenever the city council shall determine to pave or repave any street, avenue or alley in which water mains, gas mains, sewers, steam pipes or other pipes, or either of them, shall have been previously laid and constructed, they may, by resolution, require the owners of all property abutting on the said street to cause sewer, water, gas, steam and other service pipes to be first constructed and laid in such street, avenue or alley at the cost of the property fronting thereon, from the sewer, water, gas, steam or other mains in said street, avenue or alley to a point two feet inside of the curb line on either side of such street, avenue or alley at such intervals along the whole length of such street, avenue or alley as shall be necessary to supply and serve each lot, part of lot or parcel of land in accordance with the city ordinance governing the construction of such connections. Upon the adoption of such resolution the city auditor shall publish in the official newspaper of the city twice, once in each week for two successive weeks, a notice to said owner or occupant, setting forth what work is to be done and the time within which he is required to do the same. Such notice may be general as to the owner, but must be specific as to the description of the lot or parcel of land in front of which the improvement is to be made. If such work is not done in the manner and within the time prescribed in said notice the city council shall order the same to be done by such person as they may have contracted with therefor, under the direction of the city engineer or street commissioner, in cities having no city engineer, at the expense of the lot or parcel of land adjoining such improvement, and such expense, including the expenses of

all notices in connection with such work and the assessment therefor, and any other expenses incurred for such work, shall be assessed upon the lot or parcel of land properly chargeable therewith, by the city engineer or by the street commissioner in cities having no city engineer; and such assessment shall be returned by him and filed in the office of the city auditor, and the city auditor shall cause to be published the said assessment, together with a notice of the time and place when and where the city council will meet to approve the same, and said notice shall be published once in the official newspaper of the city at least ten days prior to the meeting of the city council to approve such assessment. The city council after the adoption of such resolution declaring the necessity of making the service connections above referred to, shall, by resolution, direct the city engineer to prepare plans and specifications for same and file with the city auditor and shall direct the city auditor to advertise for bids for the construction of such connections in accordance with the plans and specifications for the construction of the same, which plans and specifications shall be filed with the city auditor by the city engineer; and such bids shall each be accompanied by a certified check in the sum of $500 to guarantee the entering into the contract should same be awarded to him. Bids shall be received by the city council and the contract awarded to the lowest responsible bidder. The successful bidder shall give a surety bond in the sum of $1,000 executed by such bidder and a surety company as surety or by two freeholders of the state, who shall justify as required in arrest and bail, and the aggregate of such justification shall equal the amount of such bond, and such bond shall be conditioned that in case such bid is accepted and such contract awarded to such bidder he will well and faithfully perform the work bid for in accordance with the terms of and within the time provided for in such contract, and pursuant to the plans and specifications for such work on file in the auditor's office, and pay for all labor and material used in such work, and that in case of default on the part of such bidder to perform such work as provided in his contract the sum named in said bond shall be taken and held to be fixed and liquidated damages in favor of said city; and that the full amount thereof may be recovered from such bidder and his sureties in an action by the city against them on such bond. Such bond shall be approved by the city council and filed in the office of the city auditor, and shall thereupon be and remain in full force and effect. Upon the award of the contract the checks of all unsuccessful bidders shall be returned to them, and upon the filing of such bond the check of the successful bidder shall be returned to him. The city council shall have the right to reject any and all bids for work to be done under this section if, in its opinion, the interests of the city will be best subserved by so doing, and readvertise for further bids, but if all such bids are not rejected the contract

shall then be awarded to the responsible bidder whose bid is the lowest upon the basis of cash payment therefor; provided, such bidder shall have complied with the foregoing requirements and furnished the bond hereinbefore provided for. All contracts entered into for any work provided for in this section shall be entered in the name of the city and shall be executed on the part of the city by the mayor thereof, and countersigned by the auditor with the corporate seal of the city affixed, and when signed by the contractor shall be filed in the office of the city auditor. Such contract shall require the work to be done thereunder to be done pursuant to the plans and specifications therefor on file in the office of the city auditor, and subject to the approval of the city engineer, who shall supervise and inspect such work during its progress, and there shall be reserved in each contract the right of the city council, in case of an improper construction of such work, to suspend work thereon at any time, and to relet the contract therefor, or order a reconstruction of said work or any part thereof improperly done. Each contract so entered into shall state the time on or before which such work must be completed, and must state from what fund the amount to be paid thereon by the city is to be paid, and that the consideration of such contract is payable only in warrants drawn on such fund, and that such city assumes and incurs no general liability under such contract. In case the contractor to whom any such contract shall be let shall properly perform the work therein designated, the city council may from time to time in its discretion, as the work progresses, pay to such contractor upon an estimate made by the city engineer of the amount already earned thereunder, eighty-five per cent of the amount shown by such estimate to have been so earned, in warrants drawn on the fund from which the same is to be paid. All money collected from special assessments for building and constructing sewer and water and other connections shall be kept in a fund called "sewer and water connections special assessment fund," and warrants shall be drawn on such fund for the payment of the costs of all such connections. All such sewer and water special assessments shall be paid in a single amount.

§ 11. NOT RETROACTIVE.] This act shall not affect any contract let and commenced under this act which it amends, but all such contracts shall be conducted and concluded under the terms of said act.

§ 12. EMERGENCY.] Whereas, the present law relating to cities restricting police powers, methods of advertising for paving bids, letting contracts and bonds for same, and duties of auditors in relation thereto, therefore this act shall be in full force from and after its passage and approval.

Approved February 26, 1907.

## CHAPTER 47.

[H. B. No. 36—Storey]

### EXTENSION OF CITY LIMITS.

AN ACT to Amend Section 2825 of the Revised Codes of North Dakota of 1905, Relating to Extension of Corporate Limits of Cities.

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

§ 1. AMENDMENT.] Section 2825 of the revised codes of North Dakota of 1905, be and the said section is hereby amended so as to read as follows:

§ 2825. EXTENSION OF LIMITS.] Any city in this state, having not less than fifteen hundred inhabitants, may so extend its boundaries as to increase the territory within the corporate limits not to exceed one-fourth of its present area, by a resolution of the city council passed by two-thirds of the entire members-elect, particularly describing the land proposed to be incorporated within the city limits, setting forth the boundaries and describing the land platted by blocks and lots; provided, that at least two-thirds in area of the territory described in such resolution and proposed to be incorporated within such limits shall have previously been platted into blocks and lots; provided, further, that whenever any incorporated city in this state, whether organized under the general law or under a special charter and without regard to the number of its inhabitants, is or shall be separated into two parts not contiguous at any point, the strip of unincorporated territory so separating and lying between such parts, if the same does not exceed one-fourth of the present limits of such city, may be so incorporated within such limits without having previously been platted into blocks or lots by the passage of such a resolution as is hereinbefore provided for the extension of limits.

Approved March 12, 1907.

## CHAPTER 48.

[S. B. No. 337—Sharpe]

### RE-DISTRICTING CITY INTO WARDS.

AN ACT Authorizing the City Council to Re-District into Wards Any City in this State of Less than Two Thousand Population.

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

§ 1. POWER TO REDISTRICT.] The city council of any city in this state having less than two thousand population, shall have

power to re-district the city into wards for the purpose of equalization of population; provided, that the number of such wards shall not be diminished nor increased.

§ 2. EMERGENCY.] Whereas, there is no law whereby cities of less than two thousand population can be re-districted into wards, therefore an emergency exists, and this act shall take effect and be in force from and after its passage and approval.

Approved March 13, 1907.

# CLERK HIRE

## CHAPTER 49.

[S. B. No. 301—LaMoure]

### ADDITIONAL CLERICAL ASSISTANCE IN STATE OFFICES.

A JOINT RESOLUTION Authorizing the State Auditing Board, in Their Discretion, from Time to Time, as the Necessities May Arise, to Employ Additional Clerical Assistance in the Various State Offices, and Authorizing an Appropriation for the Payment Therefor.

*Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring,* That the state auditing board may, in their discretion, from time to time as the necessity therefor may appear to them, authorize the employment in the different state offices at the capitol, of clerical assistance to enable the different state officers to properly fulfill their duties. The said state auditing board shall act on written applications only, which application shall be signed by the state officer desiring the additional clerical assistance, giving the name of the party desired to be employed, the probable time of such employment and the salary that should be paid such person. On receiving such written application the said board shall, by resolution, duly entered in the minutes of their proceedings, approve or disapprove the said request, state the person authorized to be employed, the duration of such employment, the salary to be received and such other and further directions as to said board may seem proper. On receipt of a duly certified copy of such resolution the state auditor is authorized to draw his warrant on the state treasurer from time to time for the sum authorized to be paid and a sufficient appropriation to cover the same out of any funds in the state treasury is hereby made. Be it further

*Resolved,* That in the judgment of this legislative assembly the provisions of this resolution should take effect at once; therefore an emergency is declared to exist and the authority herein conferred shall take effect from and after its passage and approval.

Approved March 4, 1907.

# COAL MINES

## CHAPTER 50.

[H. B. No. 263—Brodie]

### COAL MINE STATISTICS.

AN ACT Providing for the Keeping of Books Containing Statistical Information to be Furnished to the Commissioner of Agriculture and Labor, and for the Making of Reports Regarding Such Statistics, and Prescribing a Penalty for Violation.

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

§ 1. COAL MINE LICENSE, HOW PROCURED.] The operator of each and every coal mine operated in the state of North Dakota, and selling coal to the general public, shall annually, on or before the tenth day of July, after the passage and approval of this act, procure a license from the commissioner of agriculture and labor, for which he shall pay a fee of five dollars.

§ 2. STATISTICS TO BE FURNISHED.] There shall be kept in a book to be provided for that purpose, at each mine operated and selling coal to the general public, the following information: Name of the mine; its location; when it began business; by whom owner; by whom operated; number of tons of coal mined; number of men employed; wages paid by the day, week, month and year; the total cost of operating the mine; the total amount of coal sold, and the price received therefor, and such other statistical information as the commissioner of agriculture and labor may prescribe, to be kept by such mine, under the provisions of section 127 of the revised codes of 1905; provided, that when the report of any operator of a coal mine in this state shows that the output of his mine has not been more than five hundred tons of coal for the year, the five dollars paid as license shall be returned to such operator.

§ 3. REPORT TO COMMISSIONER OF AGRICULTURE.] It shall be the duty of all persons operating mines within this state, as provided in sections one and two of this act, to make a verified report to the

commissioner of agriculture and labor, containing all the information to be kept by said mine operator, as provided in section two of this act, together with such further information as the commissioner of agriculture and labor may require under the provisions of section 127 of the revised codes of 1905.

§ 4. PENALTY FOR FAILURE TO COMPLY WITH LAW.] Every mine owner and operator who shall operate any coal mine without first procuring the license herein provided for, or who shall willfully fail, neglect or refuse to comply with the provisions of this act, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be subject to a fine of one hundred dollars, or imprisonment in the county jail not exceeding thirty days, or both such fine and imprisonment, as the court may determine.

Approved March 13, 1907.

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## CHAPTER 51.

[H. B. No. 33—Oveson]

### MAXIMUM COAL RATE.

AN ACT to Amend and Re-enact Chapter 146 of the Laws of 1903, Being Section 4395 of the Revised Codes of North Dakota for 1905, Relating to the Maximum Coal Rate.

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

§ 1. AMENDMENT.] Section 4395 of the revised codes of 1905 is hereby amended to read as follows:

§ 4395. MAXIMUM COAL RATE.] All railroad companies doing business as common carriers within the state of North Dakota shall not charge for the transportation of coal within said state a greater rate per ton than the following:

For the first ten miles or fractional part thereof, thirty cents per ton.

For any distance over ten miles and not to exceed fifteen miles, thirty-five cents per ton.

For any distance over fifteen miles and not to exceed twenty miles, thirty-seven cents per ton.

For any distance over twenty miles and not to exceed twenty-five miles, thirty-eight cents per ton.

For any distance over twenty-five miles and not to exceed thirty miles, forty cents per ton.

For any distance over thirty miles and not to exceed thirty-five miles, forty-one cents per ton.

For any distance over thirty-five miles and not to exceed forty miles, forty-three cents per ton.

For any distance over forty miles and not to exceed forty-five miles, forty-four cents per ton.

For any distance over forty-five miles and not to exceed fifty miles, forty-six cents per ton.

For any distance over fifty miles and not to exceed fifty-five miles, forty-seven cents per ton.

For any distance over fifty-five miles and not to exceed sixty miles, forty-nine cents per ton.

For any distance over sixty miles and not to exceed sixty-five miles, fifty cents per ton.

For any distance over sixty-five miles and not to exceed seventy miles, fifty-two cents per ton.

For any distance over seventy miles and not to exceed seventy-five miles, fifty-three cents per ton.

For any distance over seventy-five miles and not to exceed eighty miles, fifty-five cents per ton.

For any distance over eighty miles and not to exceed eighty-five miles, fifty-six cents per ton.

For any distance over eighty-five miles and not to exceed ninety miles, fifty-eight cents per ton.

For any distance over ninety miles and not to exceed ninety-five miles, fifty-nine cents per ton.

For any distance over ninety-five miles and not to exceed one hundred miles, sixty-one cents per ton.

For any distance over one hundred miles and not to exceed one hundred and five miles, sixty-two cents per ton.

For any distance over one hundred and five miles and not to exceed one hundred and ten miles, sixty-four cents per ton.

For any distance over one hundred and ten miles and not to exceed one hundred and fifteen miles, sixty-five cents per ton.

For any distance over one hundred and fifteen miles and not to exceed one hundred and twenty miles, sixty-seven cents per ton.

For any distance over one hundred and twenty miles and not to exceed one hundred and twenty-five miles, sixty-eight cents per ton.

For any distance over one hundred and twenty-five miles and not to exceed one hundred and thirty miles, sixty-nine cents per ton.

For any distance over one hundred and thirty miles and not to exceed one hundred and thirty-five miles, seventy-one cents per ton.

For any distance over one hundred and thirty-five miles and not to exceed one hundred and forty miles, seventy-two cents per ton.

For any distance over one hundred and forty miles and not to exceed one hundred and forty-five miles, seventy-four cents per ton.

For any distance over one hundred and forty-five miles and not to exceed one hundred and fifty miles, seventy-six cents per ton.

For any distance over one hundred and fifty miles and not to exceed one hundred and fifty-five miles, seventy-eight cents per ton.

For any distance over one hundred and fifty-five miles and not to exceed one hundred and sixty miles, eighty cents per ton.

For any distance over one hundred and sixty miles and not to exceed one hundred and sixty-five miles, eighty-two cents per ton.

For any distance over one hundred and sixty-five miles and not to exceed one hundred and seventy miles, eighty-four cents per ton.

For any distance over one hundred and seventy miles and not to exceed one hundred and seventy-five miles, eighty-six cents per ton.

For any distance over one hundred and seventy-five miles and not to exceed one hundred and eighty miles, eighty-seven cents per ton.

For any distance over one hundred and eighty miles and not to exceed one hundred and eighty-five miles, eighty-nine cents per ton.

For any distance over one hundred and eighty-five miles and not to exceed one hundred and ninety miles, ninety-one cents per ton.

For any distance over one hundred and ninety miles and not to exceed one hundred and ninety-five miles, ninety-three cents per ton.

For any distance over one hundred and ninety-five miles and not to exceed two hundred miles, ninety-five cents per ton.

For any distance over two hundred miles and not to exceed two hundred and ten miles, ninety-seven cents per ton.

For any distance over two hundred and ten miles and not to exceed two hundred and twenty miles, ninety-nine cents per ton.

For any distance over two hundred and twenty miles and not to exceed two hundred and thirty miles, one dollar and one cent per ton.

For any distance over two hundred and thirty miles and not to exceed two hundred and forty miles, one dollar and four cents per ton.

For any distance over two hundred and forty miles and not to exceed two hundred and fifty miles, one dollar and six cents per ton.

For any distance over two hundred and fifty miles and not to exceed two hundred and sixty miles, one dollar and nine cents per ton.

For any distance over two hundred and sixty miles and not to exceed two hundred and seventy miles, one dollar and eleven cents per ton.

For any distance over two hundred and seventy miles and not to exceed two hundred and eighty miles, one dollar and fourteen cents per ton.

For any distance over two hundred and eighty miles and not to exceed two hundred and ninety miles, one dollar and seventeen cents per ton.

For any distance over two hundred and ninety miles and not to exceed three hundred miles, one dollar and nineteen cents per ton.

For any distance over three hundred miles and not to exceed three hundred and ten miles, one dollar and twenty cents per ton.

For any distance over three hundred and ten miles and not to exceed three hundred and twenty miles, one dollar and twenty-four cents per ton.

For any distance over three hundred and twenty miles and not to exceed three hundred and thirty miles, one dollar and twenty-six cents per ton.

For any distance over three hundred and thirty miles and not to exceed three hundred and forty miles, one dollar and twenty-nine cents per ton.

For any distance over three hundred and forty miles and not to exceed three hundred and fifty miles, one dollar and thirty-one cents per ton.

For any distance over three hundred and fifty miles and not to exceed three hundred and sixty miles, one dollar and thirty-four cents per ton.

For any distance over three hundred and sixty miles and not to exceed three hundred and seventy miles, one dollar and thirty-six cents per ton.

For any distance over three hundred and seventy miles and not to exceed three hundred and eighty miles, one dollar and thirty-nine cents per ton.

For any distance over three hundred and eighty miles and not to exceed three hundred and ninety miles, one dollar and forty-one cents per ton.

For any distance over three hundred and ninety miles and not to exceed four hundred miles, one dollar and forty-four cents per ton.

For any distance over four hundred miles and not to exceed four hundred and ten miles, one dollar and forty-seven cents per ton.

For any distance over four hundred and ten miles and not to exceed four hundred and twenty miles, one dollar and forty-nine cents per ton.

For any distance over four hundred and twenty miles and not to exceed four hundred and thirty miles, one dollar and fifty-one cents per ton.

For any distance over four hundred and thirty miles and not to exceed four hundred and forty miles, one dollar and fifty-four cents per ton.

For any distance over four hundred and forty miles and not to exceed four hundred and fifty miles, one dollar and fifty-six cents per ton.

For any distance over four hundred and fifty miles and not to exceed four hundred and sixty miles, one dollar and fifty-nine cents per ton.

For any distance over four hundred and sixty miles and not to exceed four hundred and seventy miles, one dollar and sixty-one cents per ton.

For any distance over four hundred and seventy miles and not to exceed four hundred and eighty miles, one dollar and sixty-four cents per ton.

For any distance over four hundred and eighty miles and not to exceed four hundred and ninety miles, one dollar and sixty-six cents per ton.

For any distance over four hundred and ninety miles and not to exceed five hundred miles, one dollar and sixty-nine cents per ton.

Provided, that the above mentioned rates shall be for carload lots only.

In case any shipment of coal under the provisions of this section must pass over two or more lines of railroad to reach its destination, then an additional charge of two dollars and fifty cents per car for each transfer may be allowed and collected to cover cost of switching, and the total amount of freight and switching charges shall be divided among the several railroads concerned upon such basis as to them may seem just; provided, that if such railroads cannot agree among themselves upon an equitable division thereof, then the board of railroad commissioners shall decide the matter, subject to appeal to the courts.

Approved March 13, 1907.

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## CHAPTER 52.

[H. B. No. 220—Ueland]

### COAL MINE INSPECTION.

AN ACT Amending Sections 7608 and 7609 of the Revised Codes of 1905, and Making the State Engineer Ex-officio Coal Mine Inspector of the State.

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

§ 1. AMENDMENT.] Sections 7608 and 7609 of the revised codes of 1905 are amended so as to read as follows:

§ 7608. STATE ENGINEER. APPOINTMENT. DUTIES. POWERS. QUALIFICATIONS. SALARY.] There shall be a state engineer, who shall be a technically qualified and experienced hydraulic engineer, to be appointed by the governor and such appointment confirmed by the senate. He shall hold office for the term of four years from and after his appointment, or until his successor shall have been appointed and shall have qualified. He shall not engage in private practice. He shall have general supervision of the waters of the

state and of the measurement and appropriation thereof, and shall receive a salary of two thousand five hundred dollars per annum and actual necessary traveling expenses while away from his office in the discharge of official duties; and until otherwise provided by law he shall be ex-officio state coal mine inspector, and it is hereby made his duty immediately after the taking effect of this act to make a thorough inspection of all lignite mines in the state that are being worked, and report to the governor in detail on each mine, the depth and thickness of the vein, the average number of tons mined daily and the annual output, the selling price per ton at the mine, the number of men employed and the wages paid, the manner of mining and the machinery used, the rate per ton paid for mining, the condition of each mine with reference to the safety of the employes, what mines, if any, are on school or institution lands, and such further information as he may deem proper to report; and it shall be the duty of every mine owner, superintendent or manager of every mine, to give the inspector free access to the mine and any information which he may desire with reference to the mine and its management. Whenever the board of university and school lands shall request the state engineer to investigate any particular piece of land granted to the state under the enabling act for the purpose of determining whether or not it is coal-bearing within the meaning of the constitution, it shall be his duty to do so and report his conclusions and the basis on which they are founded to said board; but in making such investigations and reports he shall, whenever practicable, call to his assistance and consult with the dean of the school of mines (college of mining engineering) and the professor of geology at the agricultural college.

§ 7609. ASSISTANT STATE ENGINEER AND EXPENSES OF STATE ENGINEER'S OFFICE.] The state engineer shall have power to appoint from time to time, during the season of the year when field work is practicable, one or more assistant engineers, one of whom shall be a graduate from one of the leading technical universities of the country, as a mining engineer, at a salary not to exceed one thousand eight hundred dollars per annum and actual and necessary traveling expenses while away from the office in the discharge of official duties. The state engineer may employ other and additional assistants and purchase materials and supplies for the proper conduct and maintenance of his office and department, in pursuance of appropriations as made from time to time for such purposes. The salaries and expenses of the office of the state engineer shall be paid at the same times and in the same manner as those of other officers of the state. The office of the state engineer shall be located at the seat of government.

§ 2. EMERGENCY.] An emergency exists, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 14, 1907.

# CORPORATIONS

## CHAPTER 53.

[S. B. No. 313—Kelly]

### CAPITAL STOCK OF CORPORATIONS.

AN ACT to Amend Section 4224 of the Revised Codes of the State of North Dakota, Relating to the Increasing or Diminishing of the Capital Stock of Corporations.

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

§ 1. AMENDMENT.] Section 4224 of the revised codes is amended and re-enacted to read as follows:

§ 4224. POWERS OF CORPORATION.] Every corporation may increase or diminish its capital stock at a meeting called for that purpose by the directors, as follows:

1. Notice of the time and place of the meeting stating its object and the amount to which it is proposed to increase or diminish its capital stock must be personally served on each stockholder resident in the state sixty days prior to the time of such meeting at his place of residence if known; and the notice must be given to stockholders whose place of residence is unknown or who are not residents in the state by the publication of such notice in a newspaper published in the county where the principal office of the corporation is situated, not less than once a week for sixty days prior to such meeting; provided, that the capital stock of any railway company organized under the laws of this state may be increased to such an amount as may by its stockholders be deemed necessary for the purchase or construction of any railroad which it may be legally empowered to purchase or construct; for additions to or improvements of its railroad or property; for additional equipment which may be necessary in the operation of its railroad and for real estate that may be needed by said corporation for railway purposes, by a majority vote of all its stock, in person or by proxy at any annual meeting, or at any meeting called by its directors for that purpose, by a notice in writing to each stockholder, to be served on him personally or by depositing the same in the postoffice, postage paid, properly directed to him at the postoffice nearest his usual place of residence at least forty days prior to such meeting. Such notice shall state the time and place of such meeting, its object and the amount to which it is proposed to increase such capital stock. No vote in favor of such increase

shall take effect until the proceedings of such meeting, showing the names of all of the stockholders voting therefor and the amount of stock owned by each, shall be entered upon the records of such corporation. Every such corporation so increasing its capital stock, shall file with the secretary of state, whenever issues of stock shall be made under this section, a report showing the amount issued and the purposes to which it has been, or is to be, devoted, which report shall be verified by the oath of the president or the general manager thereof and of the chief engineer.

2. The capital stock must in no case be diminished to an amount less than the indebtedness of the corporation, or the estimated cost of the works which it may be the purpose of the corporation to construct.

3. At least two-thirds of the entire capital stock, except as hereinbefore provided, must be represented by the vote in favor of the increase or diminution before it can be effected.

4. A certificate must be signed by the chairman and the secretary of the meeting and a majority of the directors, showing a compliance with the requirements of this section, the amount to which the capital stock has been increased or diminished, the amount of stock represented at the meeting and the vote by which the object was accomplished.

5. The certificate must be filed in the office of the secretary of state, there to be recorded in the book of corporations, and thereupon the capital stock shall be so increased or diminished.

§ 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 in that there is at present in this state no law to permit a railroad corporation organized in this state to increase its capital stock in emergencies for the purpose of purchasing equipment or extending its line, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 19, 1907.

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## CHAPTER 54.

[H. B. No. 340—Jones of Ransom]

### CHARTER VALIDATED.

AN ACT Reinstating and Validating the Charter of Corporations that Have Been Cancelled for Failure to Make and File with the Secretary of State Reports as Required under Section 4186, Revised Codes of 1905.

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

§ 1. CHARTERS VALIDATED. REPORTS FILED WITH SECRETARY OF STATE.] All corporations heretofore organized under the laws of

the state of North Dakota, whose charters have become forfeited and canceled under the provisions of section 4186, revised codes, 1905, by reason of failure to make and file with the secretary of state reports as in said section required, be and the same are hereby validated for all purposes, upon condition, however, that all corporations desiring to come under the provisions hereof shall on or before July 1, 1907, make and file with said secretary full and complete reports as in said section prescribed, and the charter of all corporations complying herewith within the period stated is hereby declared valid in all respects.

§ 2. EMERGENCY.] An emergency exists, in that the charter of many corporations have been canceled by reasons of failure to make reports as required, therefore this act shall be in force from and after its passage.

Approved March 13, 1907.

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## CHAPTER 55.

[H. B. No. 203—Anderson of Grand Forks]

### BOOKS OF CORPORATION OPEN.

AN ACT to Amend Section 4516 of the Revised Codes of North Dakota for 1905, Relating to Corporations.

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

§ 1. AMENDMENT.] Section 4516 of the revised codes of North Dakota for 1905 be and the same is hereby amended to read as follows:

§ 4516. ACCOUNTS. PUBLICITY. STATEMENT.] Regular books of accounts of all the business of such corporation must be kept, which with the vouchers shall at all reasonable times be open for the inspection of any of the stockholders, and any stockholder in making such inspection shall be privileged to take with him an expert accountant to aid him in making the inspection, and as often as once in each year a statement of such accounts shall be made by order of the directors and laid before the stockholders.

Approved March 12, 1907.

# CHAPTER 56.

[H. B. No. 79—Stevens]

## BUILDING AND LOAN ASSOCIATIONS.

AN ACT to Amend Section 4610 of the Revised Codes of 1905, Relating to Building and Loan Associations.

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

§ 1. AMENDMENT.] Section 4610 of the revised codes of 1905 be and the same is hereby amended so as to read as follows:

§ 4610. HOW FORMED.] Any ten or more persons may form a corporation for the purpose of doing business as a building and loan association in the manner provided in this chapter, and, except as otherwise provided, the provisions of articles one to 12 inclusive of chapter 11 of this code shall be applicable to such corporation. Such corporation may do business outside of the state if it shall have expressed its intention so to do in its articles of incorporation, and no foreign building and loan association or corporation organized to do business as a building and loan association in any foreign state shall be authorized to transact any business as such corporation in the state of North Dakota until they shall have first deposited with the state treasurer lawful money of the United States or bonds, securities or other evidences of indebtedness owned and held by such foreign corporation in the amount of twenty-five thousand dollars, the sufficiency of said bonds or mortgages so deposited to be approved by the state treasurer, and such moneys, bonds or securities so deposited shall be subject to assessment and the levy and collection of taxes against the same in the same manner as if said property was owned and controlled by a resident of the state of North Dakota, and no business shall be transacted in the state of North Dakota by any such foreign corporation until they shall have deposited with the state treasurer the moneys or securities hereinbefore mentioned and secured the treasurer's receipt for such deposit. The said moneys or securities so deposited shall be surrendered to the corporation depositing the same whenever they shall present the certificate of the public examiner that all liabilities on the part of such corporation to any citizen of the state have been fully discharged and not otherwise; provided, however, that for the purposes of this act any foreign corporation which issues certificates or contracts to citizens of this [state] whereby it agrees that in consideration of certain stipulated monthly payments to said corporation it will either buy or build a home, or loan money upon real estate, shall be considered and held to be foreign building and loan associations.

Approved March 12, 1907.

## CHAPTER 57.

[H. B. No. 248—Giedt]

### LIABILITY OF COMMON CARRIERS.

AN ACT to Amend Section 5678 of the Civil Code of the Revised Codes of the State of North Dakota, Edition of 1905 (Being Section 4230 of the Civil Code of the Revised Codes of the State of North Dakota, Edition of 1895), and Re-Enact the Same as Amended.

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

§ 1. AMENDMENT.] Section 5678 of the civil code of the revised codes of the state of North Dakota, edition of 1905, being section 4230 of the civil code of the revised codes of the state of North Dakota, edition 1895, is amended and re-enacted so as to read as follows:

§ 5678. EXONERATION BY AGREEMENT LIMITED.] A common carrier cannot be exonerated by any agreement made in anticipation thereof from liability for the negligence, fraud, or other wrongful act of himself or his servants.

Approved March 13, 1907.

# CORRUPT PRACTICES

## CHAPTER 58.

[S. B. No. 104—Young]

### CORRUPT PRACTICES ACT.

AN ACT Making It Unlawful for Any Corporation to Use Any of Its Money or Property or Anything of Value in Political Compaigns or for Any Political Purpose, Also Making It Unlawful to Solicit or Knowingly Receive Any Such Money, Property or Anything of Value, and Prescribing Penalties Therefor.

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

§ 1. CONTRIBUTIONS FOR POLITICAL PURPOSES PROHIBITED. PENALTY.] No corporation doing business in this state shall, directly or indirectly, pay or use, or offer, consent or agree to pay or

use any money, property, or anything of value for or in aid of any political party, committee or organization or for or in aid of any corporation or association organized or maintained for political purposes, or for or in aid of any candidate for political office, or for the nomination for such office, or for any political purpose whatsoever, or for the reimbursement or indemnification of any person for money or property so used or for the purpose of influencing legislation of any kind. Any officer, director, stockholder, attorney, agent or representative of any corporation or association which violates any of the provisions of this act, who participates in, aids, abets or advises or consents to any such violation, and any person who solicits or knowingly receives any money or property in violation of this act, shall upon conviction thereof be punished by imprisonment in the state penitentiary for not more than one year, or a fine of not less than two hundred dollars nor more than five thousand dollars or both such fine and imprisonment, and any officer aiding or abetting in any contribution made in violation of this act, shall be liable to the company or association for the amount so contributed.

§ 2. No person excused from testifying.] No person shall be excused from attending and testifying or producing any books, papers or other documents before any court or magistrate, upon any investigation, proceeding or trial for a violation of any of the provisions of this act, upon the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate or degrade him; but no person shall be prosecuted or subject to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may so testify or produce evidence, documentary or otherwise, and no testimony so given or produced shall be used against him upon any criminal investigation or proceeding.

§ 3. Corporation responsible for acts of officer or agent.] The violation of this act by any officer, employe, agent, attorney or other representative of a corporation shall be prima facie evidence of said violation by such corporation.

§ 4. Punishment for advising violation of act.] Any person or persons who shall aid, abet or advise a violation of the provisions of this act shall, upon conviction thereof, be punished as provided for in section one of this act.

§ 5. Prosecutions, where brought.] Violations of this act may be prosecuted in the county where such payment or contribution is made, or in any county wherein such money or property has been paid or distributed.

Approved March 14, 1907.

# COUNTIES

## CHAPTER 59.

[S. B. No. 202—Simpson]

### REPEALING CONFLICTING LAWS FOR ORGANIZATIOIN OF COUNTIES.

AN ACT to Repeal Sections 2297 to 2321, Both Inclusive, of the Revised Codes of North Dakota for the Year A. D. 1905, Relating to Organization of Counties.

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

§ 1. Sections 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320 and 2321 are hereby repealed.

Approved March 20, 1907.

## CHAPTER 60.

[S. B. No. 304—LaMoure]

### DIVISION OF COUNTIES.

AN ACT to Amend and Re-enact Section 2329 of the Revised Codes of North Dakota for the Year 1905, Relative to the Division of Counties.

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

§ 1. AMENDMENT.] Section 2329 of the revised codes of 1905 of North Dakota is amended and re-enacted so as to read as follows:

§ 2329. ELECTORS MAY PETITION.] Whenever it is desired to form a new county out of one or more of the then existing counties, and a petition praying for the formation of such new county, describing the territory proposed to be taken for such new county, together with the name of such proposed new county, signed by a majority of the legal voters residing in the territory to be stricken from such county or counties (as appears by the number of votes cast for governor at the last preceding general election), shall be presented to the board of county commissioners of each county to be affected by such division, and it appearing that such new county can be constitutionally formed, it shall be the duty of such

boards of county commissioners to make an order providing for the submission of the question of the formation of such new county to a vote of the people of the counties to be affected, at the next succeeding general election, and notice thereof shall be given, the votes canvassed, and the returns made as in the case of the election of members of the legislative assembly; and the form of the ballot to be used in the determination of such question shall be "for new county" and "against new county."

Approved March 19, 1907.

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## CHAPTER 61.

[H. B. No. 241—Burgum]

### ELECTION FOR COUNTY SEATS.

AN ACT Amending and Re-enacting Sections 2361 and 2364 of the Revised Codes of 1905, Relating to County Seats.

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

§ 1. AMENDMENT.] Sections 2361 and 2364 of the revised codes of 1905 be and are hereby amended and re-enacted to read as follows:

§ 2361. BALLOT, HOW MARKED. NOTICE OF RESULT.] In voting on the question, each elector must vote for the place in the county which he prefers by placing opposite the name of the place the mark (X). When the returns have been received and compared and the result ascertained by the board, if two-thirds or more of all the legal votes cast at such election are in favor of any particular place the board must give notice of the result by posting notices thereof in all the election precincts in the county and by publishing a like notice in a newspaper published in the county at least once a week for four weeks.

§ 2364. ELECTION HELD ONLY ONCE EVERY TEN YEARS.] When an election has been held and at least two-thirds of the votes cast at such election are not cast for some other place than that fixed by law as the former county seat, no second election for the removal thereof must be held within ten years thereafter.

Approved March 14, 1907.

## CHAPTER 62.

[S. B. No. 9—Steele]

### DIVISION OF COUNTIES.

AN ACT to Amend and Re-enact Section 2330 of the Revised Codes of North Dakota of 1905, Relative to Division of Counties.

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

§ 1. AMENDMENT.] Section 2330 of the revised codes of North Dakota of 1905 is amended and re-enacted to read as follows:

§ 2330. GOVERNOR TO APPOINT COUNTY COMMISSIONERS.] If it shall appear that a majority of all votes cast at such election in each of the counties interested is in favor of the formation of such new county or counties the county auditor of each of such counties shall certify the same to the secretary of state, stating in such certificate the name, territorial contents and boundaries of such new county, whereupon the secretary of state shall notify the governor of the result of such election, whose duty it shall be to appoint three persons, residents of the county so formed, possessing the qualification of electors, who will accept and qualify in such office, county commissioners for such new county, or counties, who shall hold their office until the first general election thereafter and until their successors are elected and qualified, and upon the qualifying of such commissioners such county shall be deemed to have existence as such and be governed by the laws of the state relating to counties.

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

Approved March 8, 1907.

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## CHAPTER 63.

[S. B. No. 199—Simpson]

### COUNTY ORGANIZATION IN UNORGANIZED TERRITORY.

AN ACT to Provide for Organizing Counties from the Unorganized Territory in this State.

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

§ 1. HOW ORGANIZED. PETITION.] Any unorganized territory in this state having a population of at least one thousand bona fide inhabitants and comprising an area of not less than twenty-four

congressional townships, may become organized into a county by presenting to the governor a written petition signed by at least one hundred and fifty bona fide residents of such territory, which petition shall contain the name of the proposed county, and describe its boundaries, and set forth that it has the requisite number of bona fide inhabitants for organization, and request him to organize it as a county under the name stated in the petition, and as hereinafter provided.

§ 2. DUTY OF GOVERNOR.] When the petition described in section one of this act has been presented to the governor, he shall first satisfy himself as to its sufficiency, and also that the proposed county has the requisite area and number of bona fide inhabitants for a county organization, and that in fixing the boundary of the proposed county congressional township lines and natural boundaries have been observed as nearly as may be. If he is satisfied as to the foregoing requirements, it shall be his duty to grant the petition and proceed at once to complete the organization of such county, as provided in the next section.

§ 3. TEMPORARY COUNTY SEAT LOCATED. OFFICERS APPOINTED.] Upon the granting of the petition for the organization of such county, and within thirty days thereafter, the governor is empowered and it is hereby made his duty by written order to locate a temporary county seat therein at such place as the greatest number of bona fide residents of such county shall designate by petition to the governor, and within the same period to appoint a full set of county officers for such county, including three county commissioners, and the governor is empowered and it is hereby made his duty to fill such vacancies in such offices as may exist by reason of the failure of any appointee to qualify.

§ 4. OFFICERS QUALIFY.] The county commissioners so appointed shall first qualify and shall proceed at once to fix the amounts of the bond of all officers where the amounts are not fixed by law. All officers appointed, as by this act provided, shall qualify within thirty days after their appointment, and enter upon the discharge of their respective duties, and shall hold their respective offices until their successors are elected and qualified.

§ 5. COUNTY DIVIDED INTO COMMISSIONER DISTRICTS.] The county commissioners appointed under this act shall, after they have qualified, immediately convene at the place selected as the county seat, and proceed to the discharge of their duties as such county commissioners, and shall divide the county into three commissioners' districts, which shall be numbered from one to three. Three commissioners shall be elected at the next general election, one from each of said districts, one of whom shall be chosen for the term of two years, two for four years, and thereafter as provided by law.

§ 6. RECORDS TRANSCRIBED.] It shall be the duty of the county commissioners of such new county to cause to be transcribed into the proper books all the records or deeds or other instruments re-

lating to real property in such new county, and all other records affecting the property rights of the residents and property owners of such new county, and the officers of such new county shall have the right to examine the records of other counties affecting such property rights, and to transcribe the same. It shall be the duty of the proper officers of the county containing such original records to certify to the copies thus transcribed, and such transcribed records shall have the same effect in all respects as original records.

§ 7. TERMS OF COURT.] Any county organized under this act shall constitute a subdivision of the judicial district of which the territory embraced in it was originally a part, and the terms of district court for such new county shall be held at such times as are fixed by the presiding judge until fixed by law.

§ 8. EMERGENCY.] Whereas, there is no general law in force applicable to the organization of the unorganized territory of this state into counties, and it is necessary that such territory be organized prior to July 1, 1907, therefore an emergency exists and this act shall take effect and be in force from and after April 1, 1907.

Approved March 8, 1907.

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# COUNTY ASYLUMS

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## CHAPTER 64.

[H. B. No. 299—Pugh]

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### BOARD OF VISITORS FOR ASYLUMS AND POOR FARMS.

AN ACT Authorizing the Board of County Commissioners to Appoint a Board of Visitors Whose Duty It Shall Be to Visit County Asylums or Poor Farms and Make Report Thereon.

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

§ 1. BOARD OF ASYLUM AND POOR FARM COMMISSIONERS. DUTIES. REPORT.] The board of county commissioners shall annually appoint a board of visitors consisting of three residents of the county, one of whom shall be a minister of the gospel, whose duty it shall be to visit at least quarterly each year the asylum in such county and who shall report to the commissioners at least quarterly the condition of such asylum and poor farm and the treatment, management and the condition of the inmates, and make such recommendations in connection with the government of such

asylum and the care, treatment and management of the same as they shall deem beneficial to the interests of the inmates thereof; which report shall be considered by the board of county commissioners and shall be published in the official newspapers of the county within two weeks after the regular meetings of the board.

Approved March 14, 1907.

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## CHAPTER 65.

[S. B. No. 318—Spoonheim]

### SUPERINTENDENT OF COUNTY POOR FARM.

AN ACT to Amend Sections 1872 and 1877 of the Revised Codes of 1905, Relating to Duty of Superintendent of County Asylum and Poor Farm.

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

§ 1. AMENDMENT.] Sections 1872 and 1877 of the revised codes of North Dakota of 1905, relating to duty of superintendent of county asylum and poor farm, are hereby amended to read as follows:

§ 1872. DUTY OF SUPERINTENDENT OF ASYLUM.] The superintendent shall receive into his care and custody all persons who may become a county charge as paupers, and take such measures for the employment and support of such paupers, and perform such other duties as the board of county commissioners shall from time to time order and direct, consistent with the laws of this state; provided, that the superintendent shall not admit a patient or pauper without first obtaining an order from the commissioner of the district where such patient or pauper resides or belongs, except in cases where immediate attention is required, the superintendent may admit such paupers or patients but shall immediately thereafter notify such commissioner.

§ 1877. SUPERINTENDENT TO GIVE BOND.] The superintendent shall execute a bond to the state in the sum of five hundred dollars, with two or more sureties to be approved by the board, conditioned for the faithful discharge of his duties, and he shall make to such board at the first and third session in each year a detailed report in writing of the time and manner of the admission of each pauper, his health and fitness to labor, the results of his industry, and the expenses incurred; provided, that such statement shall show the total number of paupers and the commissioner district from which such paupers were taken and the total number of patients who pay for their care and the amount so paid. The members of such board shall in person annually inspect such asylum with regard to its fitness in all respects for the objects of its establishment.

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

Approved March 19, 1907.

# COUNTY COMMISSIONERS

## CHAPTER 66.

[H. B. No. 49—Martin of Morton]

### VACANCIES IN BOARDS OF COUNTY COMMISSIONERS.

AN ACT to Amend Section 429 of Chapter 6 of the Political Code of 1905, Relating to Vacancies on the Board of County Commissioners.

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

§ 1. AMENDMENT.] Section 429 of chapter 6 of the political code of 1905 is amended and re-enacted to read as follows:

§ 429. VACANCIES IN BOARD OF COUNTY COMMISSIONERS, HOW FILLED.] When a vacancy occurs in the board of county commissioners, it shall be the duty of the remaining members of the board, with the county judge and auditor, immediately to appoint some suitable person to fill such vacancy from the district in which such vacancy occurred. In case a majority of such officers fail to agree upon a person to fill such vacancy the county treasurer shall be called in and act as an additional member of such board, to fill such vacancy. The appointee shall hold office until his successor is elected at the next general election and qualified.

§ 2. EMERGENCY.] Whereas, under existing laws it may sometimes happen that all or a majority of the members of a board of county commissioners are not chosen by the direct vote of the electors, therefore an emergency exists and this act shall take effect and be in force from and after its approval.

Approved March 13, 1907.

## CHAPTER 67.

[H. B. No. 214—Moore]

### COMMISSIONERS MAY SELL COUNTY PROPERTY.

AN ACT Empowering Boards of County Commissioners to Dispose of Property Which any County May Have Acquired Through Purchase, Forfeiture or Operation of Law.

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

§ 1. COMMISSIONERS AUTHORIZED TO SELL. PUBLISH NOTICE.] The county commissioners of any county in this state shall have

the right to dispose of any property, either real or personal, which the county may have acquired, either through purchase, forfeiture or operation of law. Upon resolution of any board of county commissioners authorizing the same, the county auditor shall cause to be published a notice in some legal newspaper published in such county, once each week for three consecutive weeks, containing a description of the property to be sold, and designating the day and hour when such sale shall be held. Such sale shall be held at the office of the county auditor and conducted by him, and the property so advertised shall be sold to the highest responsible bidder, if such bid is deemed sufficient by a majority of the board authorizing the sale, and such bids may be either auction or sealed bids as may be ordered by the board and specified in the notice; provided, however, that when the property to be disposed of is estimated by the board to be of a value below $100 such sale may be at private sale upon proper resolution of the board of county commissioners. The proceeds of such sale shall be paid into the county treasury and any amounts which may be due the state or any city, township, incorporated village or school district, from taxes which had been previously levied against said property, or their just proportion thereof, shall be apportioned and placed to the credit of the state, city, township, incorporated village or school corporation entitled thereto, and the remainder shall go to the general funds of the county.

§ 2. EMERGENCY.] As an emergency exists in that there is no law on our statute books covering the provisions of this act, it shall take effect and be in force from and after its passage and approval.

Approved March 12, 1907.

# COUNTY COURTS

## CHAPTER 68.

[S. B. No. 308—Senate Committee on Judiciary]

### PRACTICE IN COUNTY COURTS.

AN ACT to Amend Sections 8289, 8292, 8295, 8304, 8311, 8316 and 8318 of the Revised Codes of North Dakota for 1905, Relating to the Practice in the County Courts.

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

§ 1. AMENDMENT.] Section 8289 of the revised codes of North Dakota for 1905, the same being section one of chapter 43 of the probate code of 1895, is hereby amended to read as follows:

§ 8289. GENERAL PROVISIONS TO APPLY.] The general provisions of law which may at any time be in force relating to the district courts and to civil and criminal proceedings therein, shall relate also to the county courts having increased jurisdiction and the rules of practice of the district court shall be in force in said county court unless inapplicable, and except as herein otherwise provided, and in all actions in said county court having increased jurisdiction in this state, the respective parties shall be entitled to the benefit of all the provisional remedies of civil actions provided for in chapter 9 of the code of civil procedure, which is hereby made applicable in actions in the county court having increased jurisdiction, and the practice of securing the same shall be the same as the practice in the district court, and the powers therein given and duties imposed on clerks of the district court are extended to clerks of the county court, and the powers and duties imposed on a judge of the district court in reference to such provisional remedies are extended to the judge of the county court having such increased jurisdiction.

§ 2. AMENDMENT.] Section 8292 of the revised codes of North Dakota for 1905, the same being section four of chapter 43 of the probate code of 1895, is hereby amended to read as follows:

§ 8292. APPEALS FROM COUNTY COURT.] In all actions brought under the provisions of this chapter an appeal may be taken to the supreme court of the state in the same manner and pursuant to the same rules as appeals from the district court; provided, that when the amount in controversy does not exceed two hundred dollars the briefs may be in typewriting.

§ 3. AMENDMENT.] Section 8295 of the revised codes of North Dakota for 1905, the same being section seven of chapter 43 of the probate code of 1895, is hereby amended to read as follows:

§ 8295. MANNER OF SELECTION OF JURY.] Jurors in the county court having increased jurisdiction shall be selected in the same manner and by the same officers and from the same jury list as if the jurors were to be selected for the district court, and all of the laws relating to the selection of jurors in the district court are hereby made applicable to the selection of jurors in the county court, and each party shall be entitled to the same number of challenges as are now or may hereafter be allowed in the district court in like actions.

§ 4. AMENDMENT.] Section 8304 of the revised codes of 1905, the same being section 16 of chapter 43 of the laws of 1895, is hereby amended to read as follows:

§ 8304. TERMS OF COURT.] The regular terms of the county court shall be held at the county seat commencing at nine o'clock a. m. on the first Tuesday of each calendar month; provided, that the terms of the county court appointed to be held in the months of February, June and December of each year shall be jury terms, and that a jury may be summoned and impaneled at each of said

terms for the trial of criminal and civil cases, and not oftener; provided, further, that no jury shall be summoned or impaneled unless there shall be a criminal case awaiting trial or at least five civil cases wherein there are issues of fact triable by jury; provided, further, that the parties in civil actions may consent to a jury of six.

§ 5. AMENDMENT.] Section 8311 of the revised codes of 1905, the same being section 23 of chapter 43 of the probate code of 1895, is hereby amended to read as follows:

§ 8311. ANSWER OR DEMURRER.] The defendant must file his answer or demurrer with the clerk of the county court within ten days after the service of the summons, except in cases where the summons is served by publication as hereinafter provided, and in such cases the defendant shall file his answer or demurrer with the clerk of said county court within thirty days after the completed service of the summons by publication.

§ 6. AMENDMENT.] Section 8316 of the revised codes of 1905 is hereby amended to read as follows:

§ 8316. SALARIES OF JUDGES.] As compensation for their services under this chapter there shall be allowed and paid to the judges of county courts having civil and criminal jurisdiction, in addition to the salaries provided for such judges of county courts in counties not having increased jurisdiction, the sum of one hundred dollars for each one thousand inhabitants or fraction thereof; provided, that in no case shall the compensation for all the services of the county judge exceed the sum of two thousand five hundred dollars, and all fees collected by county judges by virtue of their offices shall be turned into the county treasury.

§ 7. AMENDMENT.] Section 8318 of the revised codes of 1905, the same being section 29 of chapter 43 of the probate code of 1895, is hereby amended to read as follows:

§ 8318. PROCESS, BY WHOM AND HOW SERVED, AND COMPENSATION.] All writs and process in county courts may be served in the same manner and with the same effect as in district court.

§ 8. EMERGENCY.] Whereas, an emergency exists in this, that the present law regulating the practice in county courts with increased jurisdiction is not sufficient to relieve the district court, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 19, 1907.

# COUNTY OFFICERS

## CHAPTER 69.

[H. B. No. 281—Johnson of Ward]

### CLERK HIRE FOR OFFICE OF REGISTER OF DEEDS.

AN ACT to Amend Section 2596 of the Revised Codes of North Dakota of 1905, Providing the Clerk Hire for the Register of Deeds Office in the Various Counties in the State.

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

§ 1. AMENDMENT.] Section 2596 of the revised codes of North Dakota of 1905 is amended to read as follows:

§ 2596. COUNTY COMMISSIONERS MAY EMPLOY DEPUTIES, WHEN. COMPENSATION.] If in the judgment of the board of county commissioners, it shall be deemed necessary for the prompt and accurate dispatch of business in the office of register of deeds that deputies or clerks be employed therein, it shall by resolution fix the number of clerks to be employed and the compensation which they shall receive, which compensation shall be paid monthly from the special salary fund by warrant; provided, that the officers in whose office such deputies or clerks are employed shall have the sole power of appointing and removing them at pleasure; provided, further, that the total amount paid to the register of deeds for salary and clerk hire shall in no case exceed the amount of fees by such officer collected, and in counties having a population of less than fifteen thousand such amount so paid such register of deeds for salary and clerk hire shall not exceed the sum of five thousand dollars; and in counties having a population of more than fifteen thousand and less than twenty-five thousand, such amount so paid to such register of deeds for salary and clerk hire shall not exceed the sum of six thousand dollars; and in counties having a population of more than twenty-five thousand such amount so paid to such register of deeds for salary and clerk hire shall not exceed the sum of twelve thousand dollars; provided, however, that all moneys received for compiling or the continuation of abstracts of title shall be turned over to the county treasurer, who shall credit the same to the county general fund. Any officer who shall receive and appropriate to his own use and benefit any part of the salary allowed to any such clerk or deputy shall be guilty of a misdemeanor.

§ 2. EMERGENCY.] Whereas, an emergency exists, in that there is now under our present law not sufficient clerk hire permitted for the prompt and accurate dispatch of business in the office of the register of deeds in some counties in the state, this act shall take effect immediately upon its passage and approval.

Approved March 13, 1907.

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## CHAPTER 70.

[S. B. No. 325—Johnson of McLean]

### SALARY OF COUNTY AUDITOR.

AN ACT Amending and Re-enacting Section 2592 of the Revised Codes of 1905, Relating to Salary of County Auditors.

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

§ 1. AMENDMENT.] Section 2592 of the revised codes of 1905, is amended and re-enacted to read as follows:

§ 2592. SALARY OF, HOW DETERMINED.] The salary of the county auditor shall be regulated by the value of the property in his county as fixed by the state board of equalization for the preceding year as follows: Provided, that no county auditor shall receive more than one thousand two hundred dollars for his personal services in any one year in counties where the valuation of taxable property is less than one million five hundred thousand dollars; nor more than one thousand four hundred dollars in counties where the assessed valuation exceeds one million four hundred thousand dollars, but does not exceed two million dollars; nor more than one thousand five hundred dollars in counties where the assessed valuation exceeds two million dollars, but does not exceed three million dollars; nor more than one thousand six hundred dollars in counties where the assessed valuation exceeds three million dollars, but does not exceed four million dollars; nor more than one thousand seven hundred dollars in counties where the assessed valuation exceeds four million dollars, but does not exceed four million five hundred thousand dollars; nor more than one thousand eight hundred dollars in counties where the assessed valuation exceeds four million five hundred thousand dollars, but does not exceed five million dollars; nor more than one thousand nine hundred dollars in counties where the assessed valuation exceeds five million dollars, but does not exceed six million dollars; nor more than two thousand dollars in counties where the assessed valuation exceeds six million dollars, but does not exceed seven million dollars; nor more than two thousand one hundred dollars in counties where the assessed valuation exceeds seven million dollars, but does not exceed eight million dollars; nor more than two thousand two hundred dollars

in counties where the assessed valuation exceeds eight million dollars, but does not exceed nine million dollars; nor more than two thousand three hundred dollars in counties where the assessed valuation exceeds nine million dollars, but does not exceed ten million dollars; nor more than two thousand four hundred dollars in counties where the assessed valuation exceeds ten million dollars, but does not exceed eleven million dollars; nor more than two thousand five hundred dollars in counties where the assessed valuation exceeds twelve million dollars; and all moneys received as fees for certifying to abstracts or deeds in excess of the salary as limited by this article shall be paid by the county auditor at the end of each month into the revenue fund of the county.

Approved March 19, 1907.

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## CHAPTER 71.

[S. B. No. 152—Taylor]

### COUNTY AUDITOR KEEPS RECEPTION BOOK.

AN ACT to Provide for the Safe Keeping of Documents and Bonds Required to be Deposited in the Office of the County Auditor.

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

§ 1. BOOK PROVIDED.] There shall be provided by the board of county commissioners of each county in the state, in the same manner that other record books are provided, a book for use in the office of the county auditor to be known as the "reception book," in which shall be entered, immediately after numbering, all documents, bonds and other papers required by law to be deposited in the office of the county auditor. Such book shall be ruled in parallel columns, showing in the first column at the left hand side of the page the document number, in the second column the date of filing, in the third column the character of the instrument, and in the fourth column miscellaneous remarks.

§ 2. DUTY OF COUNTY AUDITOR.] It is hereby made the duty of each county auditor in the state to immediately upon receipt of any document, bond or other paper required to be filed in his office, number the same, and to make the proper entries in the reception book, and index the same. He shall also cause to be recorded at length in the office of the register of deeds all bonds that are required by law to be deposited in his office.

§ 3. EMERGENCY.] Whereas, there now exists no adequate law for the safekeeping of documents and bonds to be filed in the office of the county auditor, an emergency exists, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 8, 1907.

## CHAPTER 72.

[S. B. No. 211—Strom]

### COUNTY SURVEYOR.

AN ACT Providing for the Election of County Surveyor and Prescribing His Duties and the Manner in Which His Records Shall Be Kept, and Authorizing the Board of County Commissioners and the Board of Township Supervisors to Make Surveys, and Authorizing and Prescribing the Manner for the Payment of the Expenses Incurred Therein.

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

§ 1. ELECTED. BOND.] There shall be elected at the general election of each organized county in the state for the term of two years a county surveyor, who shall give bond to the people of this state in the penal sum of not to exceed two thousand dollars, the amount to be fixed by the board of county commissioners, either with two sureties, who must justify as sureties are required to justify in arrest and bail, or by an indemnity bond of some reputable company to be approved by the board of county commissioners, the same to be filed with the county auditor of the proper county, conditioned for the faithful and impartial discharge of the duties of his office.

§ 2. DEPUTIES.] Each county surveyor may appoint one or more deputies and revoke such appointment at pleasure, which appointment and revocation shall be in writing, under his hand, and filed with the clerk of court, and such deputies shall take the constitutional oath of office; and for the faithful performance of the duties of their office by such deputies the said surveyor and his sureties shall be responsible.

§ 3. CERTIFICATE EVIDENCE.] The certificate of the surveyor or his deputy, of any survey made by him of any lands in the county, shall be presumptive evidence of the facts therein contained unless such surveyor or his deputy shall be interested therein.

§ 4. SURVEYS PRESUMPTIVELY CORRECT.] The county surveyor or his deputies shall make in a good and professional manner all surveys of land within the county which they may be called upon by the owner thereof or his representative or directed by the district or county courts, the board of county commissioners or the board of township supervisors to make; and also all lands, tracts or lots owned by the county, and public roads, when so directed by said board; and his surveys shall be held as presumptively correct.

§ 5. OTHER SURVEYOR ACTS, WHEN.] Whenever a survey may be required of any land in which the county surveyor or either of his deputies shall be interested or when from any cause there shall be no surveyor or deputy surveyor of the county to be found or

able to act, such survey may be made by the surveyor of an adjoining county or either of his deputies in like manner, and to the same effect as if such survey had been made by the surveyor where the land is situated.

§ 6. RECORDS.] Each county surveyor shall record in a suitable book, to be provided by him at the expense of the county, all surveys for permanent purposes made by him and his deputies, except surveys for township highways and village plats. The record of each survey shall set forth the evidence by which the surveyor determined or identified the corners or other starting points of his survey, describing the points fully, and also setting forth whatever means were taken by him to perpetuate them upon the ground or to assist in determining and preserving their location. The record shall show the object of the survey and the methods pursued by the surveyor in making it, diagrams or plats being used to illustrate the same when necessary or convenient to do so. Upon the diagrams shall be shown the courses and distances of such boundary lines as may have been located by the survey, and such other facts as may have been determined by it. Such diagrams shall be considered a part of the record. When the courses of the lines are given by the magnetic needle the record shall show the amount and direction of the allowance made by the surveyor for the difference between the magnetic meridian and the true meridian. The record shall show the date of the survey, the name of the person or persons for whom it was made, and of the persons employed as chainmen on the survey. The surveyor shall certify upon the record that he has carefully compared the record with the original field notes taken by him at the time of the survey and that it is a true statement of the facts of such survey, as shown by said original notes. Each county surveyor and his deputies shall keep the original field notes of all surveys made by them for permanent purposes in books of convenient size and well bound in leather, to be furnished by the county surveyor at the expense of the county. These notes shall be taken and set down in the manner in which field notes of the United States surveys are kept, and shall contain all the details of each survey in the order in which the survey was made, including in full all calculations made by the surveyor to determine areas, or for measuring inaccessible distances, such as lake and river crossings, or for any other purpose required by the survey. Diagrams may be used for purposes of illustration, but shall not be used instead of the written notes required to be kept. Each field book shall contain an index referring to the surveys of which it contains the field notes. It shall also contain the certificate of the surveyor who made the surveys, that the field notes therein contained are the complete original field notes of the surveys therein referred to and described. These original field notes shall be a part of the record required to be kept by the county surveyor and the books containing them shall be deposited and kept with the surveyor's other

records of the county. Each deputy county surveyor whenever one of these books shall be filled with field notes by him, or whenever he shall, for any cause, have ceased taking notes in the book he had been using, shall deposit the same in the office of the county surveyor or county auditor, and whenever his own term of office expires shall turn over to the county surveyor such books as have been partly filled by him.

§ 7. PAPERS DELIVERED TO SUCCESSOR.] When the term of office of any county surveyor shall expire or he shall resign or be removed he shall deliver over all books and papers relating to this office to his successor therein, and any county surveyor who, on the expiration of his term of office or on his resignation or removal shall neglect for the space of one month after his successor shall be elected or appointed and qualified to deliver such books and papers as aforesaid and any executor or administrator of any deceased county surveyor who shall neglect for the space of one month to deliver to such successor all such books and papers which shall have come to his hands shall forfeit and pay a sum not less than ten or more than fifty dollars, which amount shall be fixed by the board of county commissioners at their first meeting after such failure on the part of the county surveyor, and a similar sum for every month thereafter during which he shall so neglect to deliver the same as aforesaid.

§ 8. COPIES OF U. S. PLATS.] The county surveyor shall arrange the terms of a contract with the surveyor general of the state or other proper officer, for certified copies of the field notes and plats of the original surveys by the United States of the lands of his county, and if such contract be approved by the board of county commissioners of his county the county surveyor shall upon receiving such copies direct the county auditor to draw an order upon the treasurer of his county for the amount so agreed upon, and transmit it to the said surveyor general or other person to whom it may be due, and shall have said plats and field notes substantially bound in book form which shall be kept open in said county surveyor's or county auditor's office for the benefit of the public; and all records of surveys, field notes and calculations made by any former county surveyor since the organization of the state government and now in the hands of such former county surveyor, or any other person, shall, on demand of the county surveyor of the proper county, be immediately delivered to him as a part of the records and files of his office and the boards of county commissioners of the several counties shall respectively audit and allow to the person entitled thereto, such sum as they shall deem a reasonable compensation for the expense of the books containing such records.

§ 9. FORM OF SURVEYS.] All surveys made by the county surveyors in this state must be made in accordance with the rules and regulations laid down by the commissioner of the United States

general land office, and in accordance with the following principles, when applicable:

First. All corners that can be identified by the original field notes or other unquestionable testimony shall be regarded as the original corners and must not be changed while they can be so identified.

Second. Extinct intersection corners must be re-established at proportional distances as recorded in the original field notes from the nearest known points in the original section line, east and west, and north and south from such extinct section corners.

Third. Any extinct quarter section corner except on fractional section lines must be re-established equidistant and in a right line between the section corners in all other cases at proportional distances between the nearest known points in the original lines.

Fourth. Central quarter corners of whole sections and of fractional sections adjoining the north and west boundary of townships, must be re-established at the intersection of two right lines connecting their opposite quarter section corners respectively. It shall be the duty of county surveyors to perpetuate the original corners they may work from by noting new bearing trees when timber is near. They shall also perpetuate the principal corners made by themselves in like manner.

§ 10. OATH OF CHAINMAN.] Every chainman and marker employed in making surveys pursuant to the provisions of this chapter, shall first take an oath that he will faithfully discharge his duties as such, which oath the county surveyor or his deputy making the survey is hereby authorized to administer.

§ 11. CORNERS LOCATED. EXPENSES, HOW PAID.] Whenever two or more resident owners of real estate after having given at least ten days' notice by personal or written service to all other persons or their agents owning land in the same section, or abutting on same section that will be affected by said survey, who reside in the same township, shall desire to have their corners and lines, or any of them, established or relocated or perpetuated, the county surveyor shall proceed to make the required surveys and the expense thereof shall be borne by all the persons benefited to the amount of work done for each to be determined by the surveyor and if any person thus benefited, whether a non-resident or otherwise, shall refuse or neglect to pay his share of such expense within sixty days thereafter, such surveyor shall certify the same, and to whom due, to the county auditor, together with a description of the land of such person, who shall assess it upon the land of such person to be collected and paid to the county treasurer in the same manner as state and county taxes, and paid by said county treasurer on the order of the county surveyor.

§ 12. SECTION CORNERS, HOW MADE.] The surveyor as above employed shall sink into the earth at all section and quarter post corners a column of concrete or cement block at least two feet

high, twelve inches square at the base and six inches square at the top, and carefully describe the same in the records of his survey, and also dig pits and mark and record new witness trees wherever possible to do so, and if any person shall wilfully cut down, destroy. deface or injure any living witness tree, or remove a corner post in any shape as above established, he shall be deemed guilty of a misdemeanor and upon conviction thereof shall be liable to a fine of not less than twenty-five dollars nor more than fifty dollars.

§ 13. COMMISSIONERS PERPETUATE CORNERS.] The board of county commissioners of the several counties in this state, or the board of township supervisors of any organized civil township in this state, are hereby authorized to establish and perpetuate any government section corners or quarter posts in their respective counties, which they may have good reason to believe are lost or are in danger of being lost, by the employment of the county surveyor or some other competent surveyor therefor, who shall keep a full and complete record of his work, giving in detail the evidences by which any corner is identified, also the manner in which lost corners are re-established, which record shall be kept in the same book provided by the county for county surveyor's records and kept in the office of the county surveyor, or county auditor, and the record so made and entered by the surveyor aforesaid shall be received as evidence in all the courts in this state wherein any question may arise as to the establishment or identification of such corner or corners; provided, that such work shall be done only in such townships where a majority of the voters, voting, shall vote to raise such sum as is required for such work by any surveyor authorized to do such work, as provided by this act; provided, further, that nothing in this act shall apply to lands where section and quarter section lines are already properly established, such sum to be assessed upon the real estate of such townships, according to its assessed valuation. Such assessment to be levied and taxes therefrom collected in the same manner as other assessments and collection of taxes are made; provided, further, that any surveyor as above employed, shall mark all corners substantially, as provided for in section 12 of this act.

§ 14. REPEAL.] All acts and parts of acts in so far as they conflict with the provisions of this act are hereby repealed.

Approved March 19, 1907.

## CHAPTER 73.

[H. B. No. 304—Chapman]

### FEES OF COUNTY SURVEYORS.

AN ACT to Amend Section 2612 of the Revised Codes of 1905, Relating to Fees of County Surveyors.

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

§ 1. AMENDMENT.] Section 2612 of the revised codes of 1905 is amended to read as follows:

§ 2612. FEES ALLOWED.] County surveyors shall be allowed to charge and receive the following fees:

1. For time actually employed, four dollars per day and mileage.
2. For each lot laid out and platted in any city or village, twenty-five cents.
3. For each copy of plat and certificate, fifty cents.
4. Recording each survey, twenty-five cents.
5. For each mile actually and necessarily travelled in going to and returning from work, ten cents.
6. For establishing each corner, twenty-five cents.
7. For ascertaining the location of a city or village lot in old survey and measuring and marking the same, two dollars.
8. For surveying county roads, four dollars per day.
9. Expenses of necessary assistance shall in addition be paid by the person requiring the work to be done.

Approved March 14, 1907.

## CHAPTER 74.

[H. B. No. 159—Shirley]

### SALARIES OF CLERKS OF DISTRICT COURT.

AN ACT to Amend Section 2580 of the Revised Codes of North Dakota for 1905, Relating to the Salaries of Clerks of the District Court.

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

§ 1. AMENDMENT.] Section 2580 of the revised codes of North Dakota for 1905 is amended to read as follows:

§ 2580. SALARY OF CLERK OF DISTRICT COURT, HOW DETERMINED.] The salary of the clerk of the district court shall

be regulated by the value of the property in his county as fixed by the state board of equalization for the preceding year, as follows: He shall be entitled to receive not to exceed five hundred dollars in counties where the assessed valuation does not exceed five hundred thousand dollars; six hundred dollars in counties where the assessed valuation exceeds five hundred thousand dollars but does not exceed one million five hundred [thousand] dollars; eight where the assessed valuation exceeds one million dollars but does not exceed one million five hundred [thousand] dollars; eight hundred dollars in counties where the assessed valuation exceeds one million five hundred thousand dollars but does not exceed two million dollars; nine hundred dollars in counties where the assessed valuation exceeds two million dollars but does not exceed three million dollars; one thousand dollars where the assessed valuation exceeds three million dollars but does not exceed three million five hundred thousand dollars; eleven hundred dollars where the assessed valuation exceeds three million five hundred thousand dollars but does not exceed four million dollars; twelve hundred dollars where the assessed valuation exceeds four million dollars but does not exceed five million dollars; thirteen hundred dollars where the assessed valuation exceeds five million dollars but does not exceed six million dollars; fourteen hundred dollars where the assessed valuation exceeds six million dollars but does not exceed seven million dollars; fifteen hundred dollars where the assessed valuation exceeds seven million dollars but does not exceed eight million dollars; sixteen hundred dollars where the assessed valuation exceeds eight million dollars but does not exceed nine million dollars, and in counties where the assessed valuation exceeds nine million dollars but does not exceed ten million dollars, the clerk shall receive the sum of eighteen hundred dollars, and in counties where the assessed valuation exceeds ten million dollars the clerk shall receive two thousand dollars; provided, that no clerk of the district [court] shall receive for his personal service an amount in excess of two thousand dollars in any one year, as provided by this article, to be paid monthly from the general county fund on the warrant of the county auditor.

Approved March 14, 1907.

# CHAPTER 75.

[H. B. No. 332—Adams]

## SALARY OF STATE'S ATTORNEY.

AN ACT to Amend Section 2578 of the Revised Codes of 1905 of the State of North Dakota, Prescribing the Salary of the State's Attorney and Assistant.

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

§ 1. AMENDMENT.] Section 2578 of the revised codes of 1905 of the state of North Dakota is hereby amended to read as follows:

§ 2578. SALARY OF STATE'S ATTORNEY AND ASSISTANT.] As compensation for his services the state's attorney shall be paid, in all counties, an annual salary, based on the assessed valuation, as follows: In counties having a valuation under five hundred thousand dollars, three hundred dollars; over five hundred thousand dollars and under one million dollars, five hundred dollars; over one million dollars and under one million five hundred thousand dollars, six hundred dollars; over one million five hundred thousand dollars and under two million dollars, seven hundred dollars; over two million dollars and under two million five hundred thousand dollars, eight hundred dollars; over two million five hundred thousand dollars and under three million dollars, one thousand dollars; over three million dollars and under five million dollars, twelve hundred dollars; over five million dollars and under seven million dollars, fifteen hundred dollars; over seven million dollars and under eight million dollars, seventeen hundred and fifty dollars, and in all counties having a valuation over eight million dollars, two thousand dollars for his personal services; provided, that in counties of over nine million dollars assessed valuation, an assistant state's attorney shall be appointed by the state's attorney, who shall receive a salary fixed by the county commissioners in an amount not to exceed one thousand dollars, and in counties of less than nine million dollars assessed valuation the salary of assistant state's attorney shall be fixed by the county commisssioners.

Approved March 13, 1907.

## CHAPTER 76.

[H. B. No. 144—Dean]

### CONTINGENT FUND FOR STATE'S ATTORNEY.

AN ACT Providing a Contingent Fund for the Use of the State's Attorney for the Payment of Such Expenses as Are Necessary and Not Otherwise Provided for in Securing Evidence in Criminal Cases, and Providing for the Auditing and Payment of Such Expenditures.

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

§ 1. COUNTY COMMISSIONERS APPROPRIATE MONEY.] The county commissioners of each county in this state are hereby authorized and directed to set apart at their first meeting in January of each year, from any funds then in the county treasury not specifically appropriated or set aside for any other purposes, in an amount to be fixed by said board of county commissioners, a sum of money not less than one hundred dollars and not more than one thousand dollars, to be used by the state's attorney of such county as a contingent fund for the purpose of defraying such necessary expenses as are not otherwise specifically provided for in the trial and preparation for trial of criminal cases, and in the payment of such necessary expenses as are not otherwise provided for in securing evidence in the investigation of criminal cases.

§ 2. STATE'S ATTORNEY MAY USE FUNDS.] The state's attorney of each county, by and with the consent and approval first had and obtained of the district court or any judge thereof in and for his county, is hereby authorized and empowered to incur the expenses specified in section one of this act, so far as is necessary, to the amount annually appropriated by said board of county commissioners for said purpose.

§ 3. AUDITOR DRAWS WARRANT.] All disbursements from said fund shall be made in the usual manner by the county treasurer of each county upon the warrant of the auditor of each county, which auditor's warrant shall be executed and delivered in an amount and to the person designated by the order of the state's attorney, countersigned by the judge of the district court for that county.

§ 4. APPROVAL DISTRICT JUDGE REQUIRED.] Before any approval shall be indorsed upon any such order of any state's attorney so applying for the same, it shall be the duty of said state's attorney to present to said judge of the district court an itemized and detailed statement of the expenses for the payment of which he then makes application, and which statement shall be verified in the usual manner provided for the verification of claims against the counties in this state.

§ 5. VERIFIED EXPENSE ACCOUNT.] Immediately upon such judge of the district court affixing his signature to said order of the state's attorney, said judge, if in his opinion the public interest will not be prejudiced thereby, and if he be of the opinion that the public interest will be prejudiced thereby, then as much as the public interest will permit, shall file in the office of the county auditor of the county on which said order is drawn said itemized and verified statement so made by said state's attorney.

§ 6. UNEXPENDED BALANCES.] Any sum remaining in said fund on the 31st day of January of each year shall then be transferred by the county auditor to the general county revenue fund of said county.

§ 7. AVAILABLE IN 1907.] During the year of 1907 the expenses mentioned in section one of this act shall be paid in the manner provided for herein, from any funds in the county treasury not specifically appropriated or set aside for other purposes.

Approved March 13, 1907.

# COURTS

## CHAPTER 77.

[H. B. No. 206—Buttz]

### EXPENSES DISTRICT JUDGES.

AN ACT Fixing the Salaries and Providing for the Payment of Necessary Expenses for the Judges of the District Courts of the State of North Dakota.

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

§ 1. PERSONAL EXPENSES.] Each judge of the district court shall, during his present term of office, receive the sum of five hundred dollars per annum for the purpose of defraying the personal expenses of such judge when away from home in the discharge of the duties pertaining to his office, and for other necessary expenses, such amount to be paid in the same manner as other state officers are paid; but the provisions of this section shall not apply to judges hereafter elected.

§ 2. SALARY.] The judges of the district courts shall receive an annual salary of four thousand dollars, the payment thereof to begin at the expiration of the term of each of the present incumbents, and until the expiration of the present term of each of said judges he shall receive an annual salary of three thousand five hundred dollars.

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

§ 4. EMERGENCY.] An emergency exists in this, that there is no provision of law providing for the payment of the necessary expenses of judges of the district courts, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 12, 1907.

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## CHAPTER 78.

[S. B. No. 31—Purcell]

### ARRAIGNMENT IN DISTRICT COURT.

AN ACT to Amend Section 9885 of the Revised Codes of 1905, Relating to Arraignment.

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

§ 1. AMENDMENT.] Section 9885 of the revised codes of 1905, relating to arraignment, is amended and re-enacted so as to read as follows:

§ 9885. HOW ARRAIGNMENTS MADE.] The arraignment must be made by the court or by the clerk or state's attorney under its direction, and consists of reading the information or indictment to the defendant, delivering to him or his counsel, a true and correct copy of the information or indictment, with all indorsements, and asking him whether he pleads guilty or not guilty to the information or indictment.

§ 2. EMERGENCY.] Whereas, an emergency exists in this, that there is no law requiring the state to provide the defendant with a copy of the indictment or information, therefore this act shall take effect immediately upon its passage and approval.

Approved February 16, 1907.

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## CHAPTER 79.

[S. B. No. 280—Purcell]

### APPEALS TO SUPREME COURT.

AN ACT to Amend Subdivision 3 of Section 7225 of the Revised Codes of 1905 of North Dakota, Relating to Appeals to the Supreme Court From Order Made in Certain Cases.

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

§ 1. AMENDMENT.] Section 7225 of the revised codes of the state of North Dakota, as revised in 1905, is hereby amended so as to read as follows:

§ 7225. WHAT ORDERS REVIEWABLE.] The following orders when made by the court may be carried to the supreme court:

1. An order affecting a substantial right made in any action, when such order in effect determines the action and prevents a judgment from which an appeal might be taken.

2. A final order affecting a substantial right made in special proceedings or upon a summary application in an action after judgment.

3. When an order grants, refuses, continues or modifies a provisional remedy, or grants, refuses, modifies or dissolves an injunction or refuses to modify or dissolve an injunction, whether such injunction was issued in an action or special proceeding or pursuant to the provisions of section 7454 of this code; when it sets aside or dismisses a writ of attachment for irregularity; when it grants or refuses a new trial or when it sustains or overrules a demurrer.

4. When it involves the merits of an action or some part thereof; when it orders judgment on application therefor on account of the frivolousness of a demurrer, answer or reply on account of the frivolousness thereof.

5. Orders made by the district court or judge thereof without notice are not appealable; but orders made by the district court after a hearing is had upon notice which vacate or refuse to set aside orders previously made without notice may be appealed to the supreme court when by the provisions of this chapter an appeal might have been taken from such order so made without notice, had the same been made upon notice.

§ 2. EMERGENCY.] Whereas, an emergency exists in this, that under the laws of this state as they now exist and are construed by the courts thereof there is no appeal to the supreme court from an order refusing to dissolve or modify an injunction issued pursuant to the provisions of section 7454 of the revised codes of North Dakota, therefore this act shall take effect from and after its passage and approval.

Approved March 19, 1907.

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## CHAPTER 80.

[H. B. No. 237—J. A. Sorley]

### STENOGRAPHER FOR SUPREME COURT.

AN ACT to Amend Section 444 of the Revised Codes of North Dakota for 1905, Relating to the Employment of Stenographer by the Supreme Court.

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

§ 1. AMENDMENT.] Section 444 of the revised codes of North Dakota for 1905 is hereby amended so as to read as follows:

§ 444. BILLS FOR SERVICE.] The bills for services rendered by any stenographer so employed after being verified by the affidavit of the stenographer and certified to as correct by the court or any judge thereof, shall be audited by the state auditor and a warrant drawn therefor.

§ 2. EMERGENCY.] Whereas, an emergency exists in this, that there is no adequate provision for the payment of a stenographer, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 12, 1907.

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## CHAPTER 81.

[S. B. No. 124—Simpson]

### PROCEDURE IN JUSTICE COURT.

AN ACT Providing That in Actions Hereafter Brought in the Justice Courts of this State, Filing of an Affidavit of the Amount Due Shall Be Considered as Prima Facie Evidence of the Indebtedness Sued On.

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

§ 1. AFFIDAVIT OF AMOUNT DUE PRIMA FACIE EVIDENCE.] In all actions hereafter brought before justices of the peace in this state upon an open account or upon an account stated, if the plaintiff or some one in his behalf shall make affidavit of the amount due, over and above all legal set-offs and annex thereto a copy of said account, and cause a copy of said affidavit and account to be served upon the defendant with a copy of the summons in such action, such affidavit shall be prima facie evidence of such indebtedness, unless the defendant in his answer shall, by himself or someone in his behalf, specifically deny the same and verifies the said answer by his oath.

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

Approved March 19, 1907.

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## CHAPTER 82.

[S. B. No. 127—Purcell]

### EXPENSES JUDGES SUPREME COURT.

AN ACT to Reimburse Judges of the Supreme Court for Their Actual and Necessary Expenses While Absent From Home in the Discharge of Official Duties.

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

§ 1. EXPENSES PAID.] Each judge of the supreme court of this state shall receive the sum of five hundred dollars per annum for

traveling expenses and moneys expended by him while absent from his home and while engaged in the discharge of his official duties, to be paid in quarterly payments without filing any itemized statement.

§ 2. EMERGENCY.] Whereas, there is no law now in force providing for the payment of such expenses, now therefore an emergency is hereby declared to exist, and this act shall take effect and be in force from and after its passage and approval.

Approved March 19, 1907.

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## CHAPTER 83.

[H. B. No. 290—Grant]

### CHANGE OF VENUE IN GARNISHMENT.

AN ACT Providing that When a Change of Venue Is Obtained in a Civil Action Pending in a Justice's Court of this State that Garnishment Proceedings Had in Such Action Shall Be Transferred with Such Action and that Such Change of Venue Shall Carry with it the Garnishment Proceedings in the Action in Which the Change of Venue Is Obtained.

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

§ 1. GARNISHMENT PROCEEDINGS TRANSFERRED. DUTY OF JUSTICE.] Whenever a change of venue is obtained in any civil action, pending in any justice's court in this state, in which action the plaintiff has proceeded by garnishment and has caused a garnishee summons to be issued, the garnishee proceedings in such action shall be transferred with such original action and such change of venue shall carry with it all proceedings already had therein and any disclosure of the garnishee made therein; and the justice of the peace ordering the transfer shall immediately transmit to the justice of the court to which such action is transferred, all the papers relating to such garnishment proceedings together with a certified transcript from his docket of the proceedings had in such garnishment proceedings; and if at the time such change of venue is obtained, the disclosure of the garnishee in such action has not been fully made, the justice of the court to which the action is transferred, shall upon receipt by him of the papers in the case, serve upon all the parties to the action, including the garnishee, or upon the respective agents or attorneys of said parties for them, a written notice of such transfer specifying the court to which such action has been transferred and the time when such garnishee shall appear and disclose or complete the disclosure in such action; and such notice must be served upon the parties and the garnishee in the manner hereinbefore provided, at least one day before the time fixed for hearing or completing the disclosure of such garnishee.

Approved March 13, 1907.

# CHAPTER 84.

[H. B. No. 176—Shirley]

## CHANGE OF VENUE IN DISTRICT COURT.

AN ACT to Amend Section 9929 of the Revised Codes of 1905 of the State of North Dakota, Relating to Prejudice of Judge.

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

§ 1. AMENDMENT.] Section 9929 is amended to read as follows:

§ 9929. PREJUDICE OF JUDGE. AFFIDAVIT. PROCEDURE.] Whenever the defendant, or a defendant, in a criminal action shall file his affidavit stating that he has good reason to believe and does believe that he cannot have a fair and impartial trial of such action on account of the prejudice of the judge of the district court in which said action is pending, the court shall thereafter proceed in said action as follows:

1. If the defendant, or defendants, asks for a change of the place of trial of said action on any of the grounds specified in section 9919, and also for the cause mentioned in this section, it shall be the duty of the court to order said action removed for trial to some other county or judicial subdivision in this state, as provided in this article, and to request, [arrange for and procure some other judge than the one objected to,] to preside at the trial of said action; or,

2. If a change is asked for only on account of the cause mentioned in this section, the court in which said action is pending may order said action removed to a county or judicial subdivision in an adjoining judicial district in which it can be conveniently and expeditiously tried before another judge, or may request, arrange for and procure the judge of another judicial district to preside at said trial in the county or judicial subdivision in which the action is pending. A change upon the ground in this section provided for must be asked before the trial is begun and not more than one change can be granted therefor; but if a trial has been had without a verdict, or if for any reason a new trial shall be granted, whether such trial had shall have been had before or after a change of the place of trial for any of the causes mentioned in this article shall have been had, another change for any of the causes mentioned in this article may be had if asked for before another trial of the action is begun.

Approved March 13, 1907.

## CHAPTER 85.

[H. B. No. 175—Shirley]

### CHANGE OF PLACE OF TRIAL.

AN ACT to Amend Section 9921 of the Revised Codes of the State of North Dakota of 1905, Relating to the Removal of Action.

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

§ 1. AMENDMENT.] Section 9921 is amended to read as follows:

§ 9921. COURT MUST ORDER ONLY ONE CHANGE.] The court being satisfied that cause exists therefor, as defined in section 9919, must order a change of the place of trial to some county or judicial subdivision where the cause complained of does not exist. But the defendant shall be entitled to only one change of the place of trial; provided, that in event a trial of said action shall have been had after the original place of trial of said action shall have been changed by order of the court, and no verdict shall be returned in such trial, or in case a verdict shall have been returned, the same shall have been set aside for any reason whatever, or a new trial granted, the defendant shall be entitled to another change of the place of trial with the same force and effect as though no change of the place of trial shall have been made.

Approved March 13, 1907.

## CHAPTER 86.

[S. B. No. 213—Purcell]

### CHANGE OF VENUE.

AN ACT to Amend Section 9921 of the Revised Codes of the State of North Dakota, Relative to Change of Place of Trial.

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

§ 1. AMENDMENT.] Section 9921 is amended to read as follows:

§ 9921. COURT MUST ORDER. ONLY ONE CHANGE.] The court being satisfied that cause exists therefor, as defined in section 9919, must order a change of the place of trial to some county or judicial subdivision where the cause complained of does not exist. But the defendant shall be entitled to one change of the

place of trial; provided, that in event a trial of said action shall have been had after the original place of trial of said action shall have been changed by order of the court, and no verdict shall be returned in such trial, or in case a verdict shall have been returned and the same shall have been set aside for any reason whatever, or a new trial granted, the defendant shall be entitled to another change of the place of trial with the same force and effect as though no change of the place of trial shall have been made.

§ 2. EMERGENCY.] Whereas, there is no adequate law now existing covering the matter herein mentioned, an emergency exists, therefore this act shall be in force and take effect from and after its passage and approval.

Approved March 19, 1907.

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## CHAPTER 87.

[H. B. No. 52—Deane]

### HARD LABOR IN COUNTY JAIL.

AN ACT Providing that Whenever Any Court in Passing Sentence on Any Person Convicted of a Misdemeanor Sentences Such Person to Confinement in the Court Jail the Court Shall, if in His Opinion Such Person is Capable of Performing Manual Labor, Sentence Such Person to Confinement in the County Jail at Hard Labor.

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

§ 1. HARD LABOR IN COUNTY JAIL.] Whenever any court in passing sentence on any person convicted of a misdemeanor sentences such person to confinement in the county jail, the court shall, if in his opinion such person is capable of performing manual labor, sentence such person to confinement in the county jail at hard labor.

§ 2. DUTY OF SHERIFF.] Whenever any person is sentenced to confinement in the county jail at hard labor, the sheriff of such county shall enforce such sentence in accordance with the provisions of section 10442 of the revised codes of North Dakota of 1905.

Approved March 13, 1907.

## CHAPTER 88.

[H. B. No. 108—Dean]

### TIME FOR RENDERING JUDGMENT IN CRIMINAL CASES.

AN ACT Amending Section 10088 of the Revised Codes of 1905, Relating to Criminal Procedure.

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

§ 1. AMENDMENT.] Section 10088 of the revised codes of North Dakota of 1905 is amended to read as follows:

§ 10088. TIME SPECIFIED.] The time appointed must be at least two days after the verdict, if the court intends to remain in session so long, or if not, at as remote a time as can reasonably be allowed; provided, that if, for any cause, judgment cannot be rendered during the term, judgment may be rendered at any subsequent term.

Approved March 13, 1907.

## CHAPTER 89.

[S. B. No. 136—Thatcher]

### FEES FOR INTERPRETERS.

AN ACT to Amend and Re-enact Section 2625 of the Revised Codes of 1905, Relating to Fees for Interpreters.

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

§ 1. AMENDMENT.] Section 2625 of the revised codes of 1905 be and the same is hereby amended and re-enacted so as to read as follows, viz:

§ 2625. FEES FOR INTERPRETERS.] Interpreters or translators may be allowed such compensation for their services as the court shall certify to be reasonable and just, to be paid and collected as other costs, but the same shall not exceed five dollars per day.

Approved March 7, 1907.

# DAIRY PRODUCTS

## CHAPTER 90.

[H. B. No. 132—Cunningham]

### MANUFACTURE AND SALE OF DAIRY PRODUCTS.

AN ACT to Regulate the Manufacture and Sale of Dairy Products and Imitations and Substitutes Therefor, Prescribing Penalties for Violations, to Create the Office of Assistant Dairy Commissioner, Prescribing His Duties and Fixing His Salary, and to Repeal Sections 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105 and 2106 of the Revised Codes of 1905.

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

§ 1. ASSISTANT DAIRY COMMISSIONER. SALARY. DUTIES.] In order to secure the better enforcement of the provisions of this article, and to promote the improvement of the products of the dairy, the commissioner of agriculture, by and with the advice and consent of the governor, shall appoint one deputy in his department to be known officially as assistant dairy commissioner, which assistant dairy commissioner shall have a practical knowledge of and experience in the manufacture of dairy products. Said assistant dairy commissioner shall hold office during the term of the commissioner of agriculture, subject to removal from office for inefficiency, neglect or violation of duty. The said assistant dairy commissioner shall receive a salary of one thousand five hundred dollars per annum, and his actual and necessary expenses in the discharge of his duties under this act. It shall be the duty of the assistant dairy commissioner to enforce, under the direction of the commissioner of agriculture, all laws that now exist, or that may hereafter be enacted in this state regarding the production, manufacture and sale of dairy products, their imitations and substitutes. It shall be the duty of the assistant dairy commissioner to inspect every creamery, cheese factory or renovating, or "process-butter" factory, at least once each year; to assist the buttermakers, cheesemakers and managers of such factories and patrons of the same in order to improve the quality of the dairy products sold to, or manufactured in said factories; and to co-operate with and instruct the dairymen in testing their dairy herds, both individually and collectively. The sum of two thousand five hundred dollars per annum is hereby appropriated, to which shall be added the amount collected from the sale of licenses, hereinafter provided for in this article, to be paid for such purpose out of any moneys

in the treasury, not otherwise appropriated. All charges, accounts and expenses authorized by this article shall be paid by the state treasurer of the state upon the warrant of the state auditor. The entire expenses of the said assistant dairy commissioner shall not exceed the sum appropriated for the purpose of this article.

§ 2. COMMISSIONER OF AGRICULTURE TO MAKE DETAILED REPORT.] The annual reports of the commissioner of agriculture shall contain a detailed report of the work and proceedings, together with an account of expenses and disbursements of said assistant dairy commissioner, in regard to the production, manufacture and sale of dairy products, and such suggestions as he may regard of public importance connected therewith.

§ 3. POWERS AND DUTIES OF ASSISTANT DAIRY COMMISSIONER.] The said assistant dairy commissioner and such persons as shall be duly authorized for the purpose, shall have access, ingress and egress to all places of business, factories, farms, buildings, carriages, cars, vessels and cans used in the sale of any dairy product, or any imitation thereof. They shall also have power and authority to open any package, can or vessel containing such article which may be manufactured, sold or exposed for sale in violation of the provisions of this act, and may inspect the contents therein, and may take samples therefrom for analysis. They shall also have authority to prevent the sale or manufacture into any food product cream that is filthy or putrid, or milk that has been drawn from cows diseased or fed on unwholesome food. All clerks, bookkeepers, express agents, railroad officials, employes or common carriers shall render to them every assistance in their power when so requested, in tracing, finding or discovering the presence of any prohibited article named in this act. The assistant dairy commissioner and such persons as shall be duly authorized for the purpose, shall have free access to any barn or stable where any cow is kept or milked, or to any factory, building, dairy premises or creamery where any dairy products are manufactured, handled or stored when the milk or cream from such cow or product is to be sold or shipped to any creamery or cheese factory in the state, and may enforce such measures as are necessary to secure perfect cleanliness in and around the same, and of any utensils used therein.

§ 4. PENALTY FOR OBSTRUCTING COMMISSIONER.] Whosoever shall refuse to allow the inspection herein provided for, or shall in any way hinder or obstruct the proper officers performing their duties hereunder shall be subject on conviction to fine not exceeding one hundred dollars, or by imprisonment in the county jail not exceeding thirty days.

§ 5. CREAMERIES, CHEESE FACTORIES, ETC. LICENSE.] Every person, firm or corporation owning and operating a creamery, cheese factory or renovating or "process-butter" factory in the state shall on the first day of July of each year, or within thirty days thereafter, be licensed by the assistant dairy commissioner,

and shall pay for said license the sum of ten dollars for each and every factory owned and operated by said person, firm or corporation. No license shall be sold or transferred. Each license shall record the name of the owner, firm or corporation, place of business, the location of the factory and the number of the same. All fees for license collected under this act shall be added to the appropriation made for the purpose of carrying out the provisions of this act.

§ 6. STENCIL OR BRAND REQUIRED. REPORT TO COMMISSIONER.] Every creamery, cheese factory, combined creamery and cheese factory or renovating or "process-butter" factory shall procure a stencil or brand, bearing a suitable device and words which shall clearly designate the quality of the product manufactured and the number and location of the factory, and it may contain a special or private brand or name of said factory; every brand shall be used on the outside of the cheese, and also upon the package containing the same, but in the case of butter on the package only; and shall on the first day of July, or within thirty days thereafter, of each year, report to the assistant dairy commissioner the name, location and number of each factory using the same brand, and the name or names of the persons at each factory authorized to use the same, together with a copy of each stencil or brand, and the assistant dairy commissioner shall keep a book in which shall be registered the same; provided, that any creamery, cheese factory or renovating or "process-butter" factory shipping its products to a particular or special market may not be required to use said brand as provided for in this act.

§ 7. BLANKS FOR REPORTS.] The said assistant dairy commissioner shall provide blanks which shall be furnished to all proprietors or managers of creameries, cheese factories and renovating or "process-butter" factories, which shall be licensed under the provisions of this act, for the purpose of making a report of the amount of milk and dairy goods handled, and all owners or managers of such creameries, cheese factories and renovating or "process-butter" factories shall send to the assistant dairy commissioner, not later than the last day of each month, a full and accurate report of the amount of business done during the preceding month as designated under the different headings of such printed blanks.

§ 8. PENALTY FOR SELLING IMPURE, ADULTERATED OR SKIMMED MILK.] If any person shall sell, or expose for sale or exchange, or deliver or bring to another for domestic or potable use, or to be converted into any product of human food, any unclean, impure, unhealthy, adulterated, unwholesome or skimmed milk (except pure skim milk to skim cheese factories), or milk from which has been held back what is commonly known as strippings, or milk taken from an animal having disease, sickness, ulcers, abscess, or running sores, or which has been taken from animals within fifteen days

before or five days after parturition; or if any person shall purchase to be converted into any product of human food, any unclean, unhealthy, adulterated or unwholesome milk or cream, or shall manufacture any such milk or cream into any product of human food; or if any person, having cows for the purpose of producing milk and cream for sale, shall stable them in an unhealthy place, or in a crowded manner, or shall, knowingly, feed them food which produces impure, unwholesome milk, or shall feed them on any substance in a state of putrefaction, or rottennness, or of an unhealthy nature, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in section 18 of this act.

§ 9. ADULTERATION DEFINED.] For the purpose of this act, the addition of water or any so-called preservative or anything to whole milk or skimmed milk or partially skimmed milk or cream, is hereby declared an adulteration; and milk or cream which is obtained from animals fed on any substance of an unhealthy nature, is hereby declared impure and unwholesome; and milk which has been proved by any reliable method of test or analysis to contain less than twelve per cent of milk solids to the hundred pounds of milk, or less than three pounds of butter fat to the hundred pounds of milk, shall be regarded as skimmed or partially skimmed milk, and every article not containing fifteen per cent or more of butter fat shall not be regarded as cream

§ 10. STANDARD MILK AND CREAM MEASURES AND TESTS.] The state standard milk measure, or pipette, shall have a capacity of seventeen and six-tenths cubic centimeters, and the standard test tubes or bottles for milk shall have a capacity for two cubic centimeters of mercury at a temperature of sixty degrees Fahrenheit between "zero" and ten on the graduated scale on the neck thereof. Cream shall be tested by weight, and the standard unit for testing shall be eighteen grams, and the standard test tubes or bottles shall have a capacity for ten cubic centimeters of mercury at a temperature of sixty degrees Fahrenheit, between "zero" and fifty on the graduated scale on the neck thereof, and it is hereby made a misdemeanor to use any other means of determining the amount of butter fat in milk or cream than the Babcock test, or to use any other size of milk measure, weight, test tubes or bottles except those described herein, where milk or cream is purchased or furnished to cheese factories, and the value of said milk or cream is determined by the per cent of butter fat contained in the same. Any manufacturer, merchant, dealer or agent in this state who shall offer for sale or sell a cream or milk pipette, or measure, test tube or bottle which is not correctly marked or graduated as herein provided, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in section 18 of this act.

§ 11. FALSE READING UNLAWFUL.] It shall be unlawful for the owner, manager, agent or any employe of any creamery or cheese factory to manipulate, under-read or over-read the Babcock test, or any other contrivance used for determining the quality or value of milk.

§ 12. SALE OF ADULTERATED PRODUCTS PROHIBITED. OLEOMARGARINE EXCEPTED.] No person by himself or his agents or servants shall render or manufacture, sell, offer for sale for the future delivery of, have in his possession, keep in storage, distribute, deliver, transfer or convey with intent to sell within this state any article, product or compound made wholly or partly out of any fat, oil or oleaginous substance or compound thereof, not produced from unadulterated milk or cream from the same, which shall be an imitation of yellow butter produced from pure unadulterated milk or cream of the same; provided, that nothing in this act shall be construed to prohibit the manufacture or sale of oleomargarine in a separate and distinct form, and in such a manner as will advise the consumer of its real character, free from coloration or ingredient that causes it to look like butter.

§ 13. OLEOMARGARINE, BUTTERINE, ETC., HOW MARKED.] No person by himself or his agents or servants shall sell or expose for sale oleomargarine, butterine or any substance made in imitation or semblance of pure butter, in tubs, firkins or other original packages not distinctly, legibly and durably branded or marked in a conspicuous place with the word "oleomargarine" or "butterine" or "imitation butter," as the case may be, in letters not less than one inch in length and one-half inch in width, or in retail packages not plainly and conspicuously labeled with said words, "oleomargarine" or "butterine" or "imitation butter," as the case may be.

§ 14. RENOVATED BUTTER, HOW MARKED.] No person by himself, or his agents or servants, shall manufacture, sell, offer for sale or expose for sale butter that is produced by taking original packing stock or other butter, or both, and melting the same so that the butter fat can be drawn off, then mixing the said butter fat with skimmed milk or milk or cream, or other milk product, and rechurning the said mixture; or that is produced by any similar process, and is commonly known as boiled or process butter, unless the tub, firkin or other original package in which the same may be put up, be distinctly, legibly and durably branded, stamped or marked in a conspicuous place with the words "renovated butter," in printed letters not less than one inch in length and one-half inch in width; or be in prints, boxes or rolls not plainly and conspicuously labeled on the wrapper thereof with said words "renovated butter," in printed letters not less than one-half inch in length and one-quarter inch in width.

§ 15. SKIMMED MILK CHEESE, HOW MARKED.] No person by himself or his agents or servants shall sell or offer for sale any cheese manufactured from skim milk, or from milk that is partially skimmed, without the same being plainly branded, stamped or

marked on the side or top of both cheese and package in a durable manner, in the English language, the words "skimmed milk cheese," the letters of the words to be not less than one inch in height and one-half inch in width.

§ 16. FILLED CHEESE, HOW MARKED.] No person by himself or his agents or servants shall sell or offer for sale or make, manufacture out of any oleaginous substance or substances or any compound of the same or any other compound than that produced from unadulterated milk, any article to take the place of cheese produced from pure milk, or any article termed "filled cheese," shall stamp each package of the same on the top and side with lampblack and oil the words "filled cheese," or words that shall designate the exact character and quality of the product, in printed letters at least one inch long and one-half inch wide.

§ 17. CITY COUNCILS PROVIDE FOR INSPECTION OF MILK AND DAIRY HERDS.] The council of any city or incorporated town may by ordinance provide for the inspection of milk and of dairies and dairy herds kept for the production of milk within its limits, and issue licenses for the sale of milk within its limits, and regulate the same, and may authorize and empower the board of health to enforce all laws and ordinances relating to the production and sale of milk and the inspection of dairies and dairy herds producing milk for sale within such city.

§ 18. VIOLATION CONSTITUTES MISDEMEANOR. PENALTY.] Whoever violates any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof shall be punished for each offense by a fine of not less than fifteen dollars nor more than fifty dollars, and by imprisonment of not less than ten days nor more than ninety days, or both.

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

Approved March 13, 1907.

# DEPENDENT CHILDREN

## CHAPTER 91.

[H. B. No. 162—Treat.]

### DEPENDENT CHILDREN.

AN ACT Providing for Placing Dependent Children Under Sixteen Years of Age in Family Homes When Parents or Custodians Fail to Support.

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

§ 1. CARED FOR AT PUBLIC EXPENSE. DUTY OF COUNTY COMMISSIONERS.] Any minor child under the age of sixteen years who

shall by reason of the failure of either or both of its parents or its custodians to support such child becomes dependent upon public charity, or who may be deserted by its parent or parents or custodians without arrangements for its proper care, shall be deemed abandoned, and may be cared for at public expense by the overseers of the poor, or assigned by the county commissioners as overseers of the poor, and with the written consent of the county judge under the seal of his office, to any reputable organization incorporated under the laws of North Dakota for the purpose of placing such children in family homes for adoption or otherwise; provided, that in such cases the consent of either parent or custodian shall not be necessary. The commissioners may in their discretion allow and pay to such incorporated organization a reasonable amount to cover the expense of such assignment.

§ 2. CHILD DEEMED ABANDONED, WHEN.] Any minor child under the age of sixteen years who shall have been left for board with any reputable organization incorporated under the laws of North Dakota for the care and placing of children, and whose board shall not have been paid for a period of three months without a reasonable excuse, and the residence of whose legal custodians shall not be known to such organization or its officers, shall be deemed abandoned, and may upon assignment by the county commissioners as overseers of the poor, with the written consent of the county judge under the seal of his office, be placed by such organization in a family home for adoption or upon contract as may seem to be for the best welfare of the child, without the consent of either parent, and as provided for in sections 4595-4600, revised codes of 1905.

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

§ 4. EMERGENCY.] Whereas, an emergency exists, this act shall take effect and be in force from and after its passage.

Approved March 13, 1907.

# DEPOSITORIES

## CHAPTER 92.

[H. B. No. 54—Halaas]

### DEPOSIT OF COUNTY SINKING FUNDS.

AN ACT Amending Section 2439 of the Revised Codes of 1905, Relating to County Funds.

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

§ 1. AMENDMENT.] Section 2439 of the revised codes of 1905 is amended to read as follows:

§ 2439. SINKING FUND. DUTY OF COUNTY COMMISSIONERS.] Whenever there shall be accumulated in the sinking fund, or any other revenue county funds established by law, in any of the counties of this state an amount of money exceeding one thousand five hundred dollars, and for which there is no immediate use, the board of county commissioners of such county are authorized and empowered to direct a time deposit of such funds for a period of one year, as they may deem expedient, either in one or more of the county depositories as created by law, or such state or national bank as the said board of county commissioners may designate; provided, that the rate of interest offered by banks making bids for sinking funds shall be the same rate of interest as paid on other county funds.

Approved March 14, 1907.

# DRAINS

## CHAPTER 93.

[S. B. No. 205—Cashel]

### DRAINAGE.

AN ACT to Amend Sections 1819, 1820, 1821, 1822, 1823, 1827, 1828, 1831, 1832, 1835, 1840 and 1849 of the Revised Codes of 1905, the Same Being Embraced in Chapter 23 of the Political Code, Relating to Drainage.

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

§ 1. AMENDMENT.] Sections 1819, 1820, 1821, 1822, 1823, 1827, 1828, 1831, 1832, 1835, 1840 and 1849 are hereby amended to read as follows:

§ 1819. BOARD OF DRAIN COMMISSIONERS, HOW APPOINTED.] The board of county commissioners of any organized county in this state shall have power and is authorized at any meeting of the board by a majority vote of all the members, upon its own motion or on the petition of any person interested, to appoint three freeholders of the county as a board of drain commissioners of such county, who shall hold office for two years and until their successors are appointed and qualified. The board of county commissioners may remove any or all of such drain commissioners, and in case of a vacancy may fill the same by appointment. The board of county commissioners shall provide an office for said board of drain commissioners at the county seat, suitable for its use and the keeping of its records, and shall provide suitable record books for its use.

§ 1820. OATH. BOND. ORGANIZATION. LEGAL ADVICE.] Any person appointed as a member of the board of drain commissioners shall within ten days after his appointment take, subscribe and file in the office of the county auditor an oath faithfully to perform the duties of a drain commissioner under the law, and within the same time make, execute and file in the auditor's office a bond to the county with sureties to be approved by the auditor in such sum as shall be ordered by the board of county commissioners, conditioned for the faithful discharge of his duties as drain commissioner. The members of the drainage board shall organize by electing from their number a chairman and a secretary; they shall keep an office at the county seat at which all hearings upon notice shall be held and shall keep a record of its acts and proceedings and a separate record of the proceedings relating to each separate drain, all of which shall be open for public inspection, and such records shall have the same force and effect as other public records. Two members of said board shall at all times constitute a quorum for the transaction of business. Said board may, when in its judgment it is necessary, employ a clerk and fix his compensation; it may also employ and call to its assistance a competent surveyor. The state's attorney of each county shall, so far as his other duties will permit, act as the legal advisor of the board. The board may, however, by and with the consent of the county commissioners, employ other counsel to advise and represent it in its proceedings.

§ 1821. HOW ESTABLISHED.] A petition for the construction of a drain may be made in writing to the board of drain commissioners, which petition shall designate the starting point and terminus and general course of the proposed drain. If among the leading purposes of the proposed drain are benefits to the health, convenience or welfare of the people of any city or other municipality, the petition shall be signed by a sufficient number of the citizens of such municipality or municipalities to satisfy the board of drain commissioners that there is a public demand for

such drain. If the chief purpose of such drain is the drainage of agricultural, meadow, grazing or other lands the petition shall be signed by at least six or more freeholders whose property shall be affected by the proposed drain. Upon the presentation of a petition as hereinbefore provided, and filing of the same, the board of drain commissioners shall personally as soon as practicable proceed to examine the line of the proposed drain, and if in its opinion it is necessary for the public good, it shall enter a resolution to that effect, and shall also enter a resolution designating a competent surveyor who shall survey the line thereof and establish the commencement and terminus, and determine the route, width, length and depth thereof. For the purpose of making examinations or surveys the board of drain commissioners, surveyors and their employes may enter upon land traversed by any such proposed drain, or upon other lands when necessary. Such surveyor shall prepare profiles, plans and specifications of the proposed drain, an estimate of the cost thereof and a map or plat of the lands to be drained, in duplicate, showing the regular subdivisions thereof, one copy of which shall be filed in the office of the county auditor in the county in which the drain is proposed to be constructed and the other with the board of drain commissioners, subject to inspection. In locating a drain the board of drain commissioners may, under the advice of the surveyor, vary from the line described in the petition as it seems best. When the line proposed is along highways already established, the drain shall be located at a sufficient distance from the center of such highway to permit a good road along the central line thereof; when the length of the line described in the petition does not give sufficient fall to drain the lands sought to be drained the board of drain commissioners may extend the drain below the outlet named in the petition far enough to obtain a sufficient fall and outlet. Drains shall, as far as practicable, be located on dividing lines between sections or regular subdivisions thereof, but the general utility of the drain must not be sacrificed to avoid crossing any tract of land in such direction as the board of drain commissioners find advisable. Upon the filing of the surveyor's report the board of drain commissioners shall fix a date for hearing objections to the petition, and shall give notice of such hearing by causing five notices to be posted along the line of the proposed drain at such points as will be likely, in the opinion of the board, to secure the greatest publicity. Such notices shall contain a copy of the petition and a statement of the date of filing of the surveyor's report, and the date when the board will act upon the petition, and shall be signed by the members of the board or a majority thereof. All persons whose land may be affected by any such drain may appear before the board of drain commissioners and fully express their opinion and offer evidence upon the matters pertaining thereto.

§ 1822. SHOWING REQUIRED TO ESTABLISH DRAIN.] If upon the examination by the board of drain commissioners before the survey has been made, or if upon the hearing upon the petition or upon the trial in the district court it shall appear that there was not sufficient cause for making such petition, or that the proposed drain would cost more than the amount of benefit to be derived therefrom, the board of drain commissioners shall deny the petition, and the petitioners shall be jointly and severally liable to such board for all costs and expenses incurred in the proceedings, to be recovered by such board by action. If it shall appear that there was sufficient cause for the making of such petition and that the proposed drain will not cost more than the amount of the benefits to be derived therefrom the board of drain commissioners shall thereupon make an order establishing the drain, accurately describing it, and give the same a name by which it shall be recorded and indexed.

§ 1823. RIGHT-OF-WAY.] The right-of-way for the construction of any proposed drain, if not conveyed to the county by the owner, may be acquired in such manner as may now or hereafter be prescribed by law. Such right-of-way, when acquired, shall be the property of the county.

§ 1827. RETURN OF ASSESSMENT OF BENEFITS.] After the assessment of benefits has been made, as provided in the last section, and has been confirmed upon the hearing, and the specific amounts of each assessment has been extended as hereinafter provided, the board of drain commissioners shall make return thereof to the county auditor, who shall record the same in a book to be provided by the county for that purpose. Such return shall contain the petition for the drain, the minutes of the survey signed by the surveyor, a copy of the order establishing the drain, conveyance of the right-of-way, if any, and the assessment of benefits.

§ 1828. NOTICE OF CONSTRUCTION.] After completing the percentage assessment as hereinbefore provided, the board of drain commissioners shall without delay divide the line thereof into convenient divisions for construction, make diagrams of the same with specifications of the width of excavation at the bottom, the slope of the sides, and such other matters as may be necessary for the proper construction of the drain, and set suitable stakes in such places as may be necessary to show the beginning and end of divisions, and grade stakes to show the depth of cuts at such intervals as may be necessary. Such board shall give at least ten days' notice of the time when and the place where they will meet parties for the purpose of letting contracts for such construction. Such notice shall be published in some newspaper of general circulation in the county and printed notices not less than five in all and at least one in each township or municipality interested in such drain shall be posted in such township and municipalities at such points as will be likely, in the opinion of the

board, to secure the greatest publicity for such notice. Such notice shall also state that at the time and place of such letting of contracts the assessment of benefits will be subject to review, unless such assessment has already been reviewed, under the provisions of section 1825.

§ 1831. APPORTIONMENT AND TAXATION OF COSTS.] After fixing the cost of the construction of the drain, as provided in the preceding section, the board of drain commissioners shall carry out upon the assessment list the specific amount which each municipality and lot or tract of land benefited by the drain for which the tax is levied is liable to pay on account of procuring the right-of-way or the construction of any drain, or both, according to the per cent which by section 1826 it is required to fix and determine, a copy of which shall be served on the clerk or auditor of each municipality against which taxes are to be assessed. Such list shall thereupon be filed in the office of the county auditor of the county in which the municipalities and lands benefited by the drain are situated, and the auditor shall thereupon extend upon the tax lists as a special tax as provided by law the several amounts shown by the drain commissioners' list, specifying in such tax lists the particular drain for the construction or procurement of the right-of-way of which the special tax is assessed, which special tax shall be collected and enforced in the same manner as other taxes. When such special tax is for the right-of-way, the same shall when collected be paid by the county treasurer into court for the benefit of the owners of the right-of-way, and the common council, or other proper taxing authorities of each city or other municipality against which such assessment is made as aforesaid, shall include in the first general tax levy thereafter made in said city or municipality the amount so assessed against it by the board of drain commissioners, and the same shall be extended upon the tax lists of the county for the current year by the county auditor against all the taxable property in such city or municipality in the same manner and with the same effect as other taxes are extended.

§ 1832. COLLECTION OF DRAIN TAXES. PAYMENT OF EXPENSES.] The drain taxes shall be collected by the county treasurer, and all moneys so collected shall be credited to the drain fund to which they belong, and the county treasurer shall be the treasurer of such drain funds. Payment of all expenses and costs of locating and constructing any drain shall be made by the board of drain commissioners issuing warrants in such amounts and to such persons as by such board may be found due, which warrants shall be signed by the chairman and secretary. All warrants drawn by such board in payment for the right-of-way or construction of any drain shall be payable from the proper drain fund and shall be receivable for the taxes levied for the right-of-way or construction of such drain by the treasurer. All such warrants after presentation to the county treasurer for payment, if not paid for

want of funds, shall be registered by the county treasurer and shall thereafter bear interest at the rate of seven per cent per annum.

§ 1835. EXTENSION OF POWERS WHEN NECESSARY.] The powers conferred by this chapter for establishing and constructing drains shall also extend to and include the deepening and widening of any drains which have heretofore been or may hereafter be constructed; also to straightening, clearing out and deepening the channels of creeks and streams and the construction, maintaining, remodeling and repairing of levees, dykes and barriers for the purpose of drainage, and the board of drain commissioners may locate or extend the line of any drain if the same is necessary to provide a suitable outlet, and shall cause a survey thereof to be made, and may establish a drain upon the line of an abandoned drain, and complete the same, or in whole or in part upon the line of an invalid drain. It may also establish and construct lateral drains with outlets in drains heretofore constructed; provided, however, that all proceedings under this section affecting the rights of persons and property shall only be taken upon the petition and in accordance with the procedure governing the establishment and construction of drains in the first instance. Whenever the widening, extending or deepening of a main drain is made necessary by the construction of a lateral drain, the petition for the lateral drain shall contain a request for such widening, deepening or extension, and the cost of such widening, deepening or extension shall be charged as a part of the cost of construction of the drain petitioned for and assessed against the property benefited thereby as a part of the cost of the construction.

§ 1840. LEGAL DRAINS DEFINED. RECORD.] All drains regularly established, opened or constructed under the provisions of any law shall be deemed legal drains and shall be under the control and charge of the county commissioners, and it shall be the duty of all boards of county commissioners in cases where the records of any drain may not have been preserved to see that such record is made in the best manner practicable in the office of the county auditor, and whenever necessary it shall be their duty to complete the records of such drain so as to show their legal character. Said board shall provide a book to be known as "Record of Drains," in which such records shall be recorded.

§ 1849. BONDS, WHEN AND HOW AUTHORIZED.] 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 which shall be known as drainage 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 found 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 divided in such amounts and payable at such periods not exceeding fifteen years, as the board of county commissioners may determine; 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 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 county auditor shall give notice of the determination of the board of county commissioners to issue bonds by publishing a notice in the official newspaper of the county at least fifteen days before the date of selling said bonds. Said notice shall designate the drain proposed to be bonded, and in general terms notify all persons interested of their right to pay their total assessment prior to the date of the sale of said bonds, as provided in this section. 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 cost of construction; 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 for the best 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 parts corresponding with the amounts and maturities of the bonds, and such parts shall be extended year by year upon the tax lists by the county auditor against the proper parcels of land and property liable to taxation for that purpose and collected in such year, and such fund shall constitute the sinking fund provided by this section.

§ 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 the present law is cumbersome in its operations, therefore this act shall take effect from and after its passage and approval.

Approved March 20, 1907.

## CHAPTER 94.

[H. B. No. 335—Dibley]

### COMPENSATION OF DRAIN COMMISSIONERS.

AN ACT to Amend Section 1845, Chapter 23 of the Political Code of the State of North Dakota, Revised Codes of North Dakota of 1905, Relating to Drains.

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

§ 1. AMENDMENT.] Section 1845, revised codes of North Dakota of 1905, is amended to read as follows:

§ 1845. COMPENSATION OF COMMISSIONERS AND PUBLISHERS.] Drain commissioners shall receive for their services such amount not less than three nor exceeding four dollars per day for the time spent by them in the performance of the duties of their office, such per diem to be fixed by the board of county commissioners. Publishers of newspapers shall receive for publishing legal notices and furnishing evidence of such publication the fees prescribed by law for legal advertisements.

§ 2. EMERGENCY.] Whereas, the present law restricts the compensation of commissioners, therefore this act shall be in full force and effect from and after its passage and approval.

Approved March 13, 1907.

# EDUCATION

## CHAPTER 95.

[S. B. No. 163—Talcott]

### AMENDING LAWS RELATING TO EDUCATION.

AN ACT to Amend Sections 747, 778, 799, 819, 836, 847, 879, 892, 912 of the Revised Codes of 1905, Relating to Education.

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

§ 1. AMENDMENT.] Section 747 of the revised codes of 1905 is amended and re-enacted to read as follows:

§ 747. QUALIFICATIONS OF SUPERINTENDENT OF PUBLIC INSTRUCTION. TERMS OF OFFICE.] There shall be elected by the qualified electors of the state at the time of choosing members of the legislative assembly, a superintendent of public instruction, who

shall have attained the age of twenty-five years and who shall have the qualifications of an elector for that office, and be the holder of a state certificate of the highest grade, issued in this state, or a graduate of some reputable university, college or normal school. He shall hold his office at the seat of government for the term of two years commencing on the first Monday in January following his election and until his successor is elected and qualified.

§ 2. AMENDMENT.] Section 778 of the revised codes of 1905 is amended and re-enacted to read as follows:

§ 778. QUALIFICATIONS OF COUNTY SUPERINTENDENT.] No person shall be deemed qualified for the office of county superintendent in any county where the salary is one thousand dollars or more per year, who is not a graduate of some reputable normal school or higher institution of learning, or does not hold a state certificate of the first class or a life professional certificate, and who has not had at least two years' successful experience in teaching, one year of which shall have been in this state. No person shall be deemed qualified for the office of county superintendent in counties where the salary is less than one thousand dollars per year unless he holds a certificate of the highest county grade or its equivalent.

§ 3. AMENDMENT.] Section 799 of the revised codes of 1905 is amended and re-enacted to read as follows:

§ 799. WHO QUALIFIED TO VOTE OR HOLD OFFICE.] At any election of school officers in any school corporation in this state all persons who are qualified electors under the general laws of the state and all women twenty-one years of age having the necessary qualifications as to citizenship and residence required of male voters by law, shall be qualified voters and shall be eligible to the office of county superintendent of schools, school director or member of the board of education or school treasurer, or may be judge or clerk of such election; provided, however, that the county superintendent must possess the educational qualifications named in section 778 of the revised codes of 1905.

§ 4. AMENDMENT.] Section 819 of the revised codes of 1905 is amended and re-enacted to read as follows:

§ 819. GENERAL POWERS.] The district school board shall have the general charge, direction and management of the schools of the district, and the care, custody and control of all the property belonging to it, subject to the provisions of this chapter; provided, that in the employment of teachers, no relative of any member of the district board shall be hired without the unanimous consent of the board.

§ 5. AMENDMENT.] Section 831 of the revised codes of 1905 is amended and re-enacted to read as follows:

§ 831. SCHOOLS TO BE ORGANIZED ON PETITION.] If a petition signed by the persons charged with the support and having the

custody and care of nine or more children of school age, all of whom reside not less than two and one-half miles from the nearest school, is presented to the board, asking for the organization of a school for such children, the board shall organize such school and employ a teacher therefor, if a suitable room for such school can be leased or rented at some proper location not more than two and one-half miles distant from the residence of any one of such children, and if such petition is signed by the persons charged with the support and having the custody and care of twelve or more such children, the board shall organize a school and employ a teacher therefor, and if no suitable room for such school can be leased or rented, the board shall call a meeting of the voters of the district for the selection and purchase of a school house site therefor and the purchase or erection of a school house, as provided for in section 829. If at such meeting no such site is selected or if it is not voted to erect or purchase a school house for such school the board shall select and purchase a school house site and erect, purchase or move thereon a school house at a cost of not more than twelve hundred dollars for such house and furniture therefor; provided, that the provisions of this section shall not apply in instances where schools have been consolidated in accordance with the provisions of section 832.

§ 6. AMENDMENT.] Section 847 of the revised codes of 1905 is amended and re-enacted to read as follows:

§ 847. NOT ENTITLED TO TUITION FUND, WHEN. ENUMERATION.] No school district shall be entitled to receive any portion of the state tuition fund that fails to make a report of the enumeration of the children of school age in the manner provided by law, nor until such enumeration has been taken and reported as required by law. The county superintendent of schools shall not authorize the payment of money apportioned to any district unless the bond and oath of such treasurer has been duly approved and filed, as provided for by section 817; provided, also, that the county superintendent is empowered to withhold the payment of state and county tuition from any district whose clerk and treasurer have failed to make the reports provided for in section 835. New districts organized after the annual enumeration has been taken shall proceed immediately to take the enumeration as provided by law, and after the receipt of such enumeration by the superintendent of public instruction through the county superintendent, the newly organized district shall receive its proportionate share of the funds to be apportioned; provided, further, that the county superintendent shall have the right to withhold the apportionment of the county and state tuition fund from any school district other than the new district herein provided for, which has not maintained school therein for a period of not less than six school months in each school of said district in the school year preceding such apportionment or has not otherwise provided school facilities for the pupils

of that district; provided, further, that it shall be mandatory upon the county superintendent to withhold the apportionment of state and county tuition funds from any district which has not maintained school for a period of at least four months in each school in said district or otherwise provided school facilities for the pupils of that district for the school year preceding such apportionment.

§ 7. AMENDMENT.] Section 879 of the revised codes of 1905 is amended and re-enacted to read as follows:

§ 879. GIVE NOTICE OF OPENING AND CLOSING SCHOOL.] Each teacher on commencing a term of school shall give written notice to the county superintendent of the time and place of beginning such school and the time when it will probably close, and prior to receiving salary for the first month each teacher must exhibit his certificate to the clerk of the district school board. If such school is to be suspended for one week or more in such term the teacher shall notify the county superintendent of such suspension.

§ 8. AMENDMENT.] Section 892 of the revised codes of 1905 is amended and re-enacted to read as follows:

§ 892. INSTITUTE FUNDS, HOW PAID OUT.] It shall be the duty of the county superintendent of schools in all cases to consult with the state superintendent of public instruction in reference to the management of such institute or teachers' training school, and he shall carry out the suggestions of such state superintendent as to the modes of instruction. No salary shall be paid to any conductor or instructor not previously appointed or employed as herein provided. The money hereby appropriated from the state treasury for the support of teachers' institutes or teachers' training schools shall be paid to the persons to whom it is due by warrant of the state auditor upon the state treasurer, which shall be issued upon the presentation of an account in due form, receipted by the person to whom due and approved by the state superintendent of public instruction; provided, that no county shall receive more than ten dollars from such appropriation for the payment of conductor's salary for each dav its institute is in session; provided, that the state and county institute funds specified by sections 890 and 891, and the appropriation specified by section 893 of one or more counties may be applied to the support of a teachers' training school for such county or counties at the request of the county superintendent for such county or counties with the consent and under the direction of the state superintendent of public instruction; provided, further, that where a teachers' training school of not less than three weeks' duration is held within or for any county, the conductor of such training school and the county superintendent shall file a certified statement with the county auditor, specifying the time and place of such teachers' training school and the total number of schools and separate departments in graded and high schools in said county in which school has been

taught at least four months during the preceding school year. The county auditor shall file a copy of said statement with the county treasurer who shall thereupon transfer from the county general revenue fund to the county institute fund the sum of two dollars for each school or separate department in high and graded schools in the county, as per specified statement filed with the county auditor.

§ 9. AMENDMENT.] Section 912 of the revised codes of 1905 is amended and re-enacted to read as follows:

§ 912. BONDS, DENOMINATION OF. INTEREST. LIMIT OF ISSUE.] The denominations 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 a rate not exceeding five 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; provided, that the amount of bonds, including all other indebtedness shall not exceed five per cent of the assessed valuation of the school district and may be made payable in not less than ten or more than twenty years from their date.

§ 10. EMERGENCY.] Whereas, there is an emergency in this, that certain schools are to be erected under the provisions of this law immediately, therefore this act shall take effect immediately after its passage and approval.

Approved March 19, 1907.

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## CHAPTER 96.

[H. B. No. 112—Casey]

### SCHOOL HOUSES AND SITES.

AN ACT to Amend Section 829 of the Revised Codes of North Dakota for 1905, Relating to Education.

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

§ 1. AMENDMENT.] Section 829 of the revised codes of 1905 is amended to read as follows:

§ 829. SCHOOL HOUSES AND SITES, HOW DETERMINED. PLANS FOR SCHOOL HOUSES, HOW PREPARED. BOARD OF INSPECTORS, HOW CONSTITUTED.] Whenever in the judgment of the board it is desirable or necessary to the welfare of the schools in the district, or to provide for the children therein proper school privileges, or whenever petitioned so to do by one-third of the voters of a district, the board shall call a meeting of the voters in the district at some convenient time and place fixed by the board, to vote upon the question of the selection, purchase, exchange or sale of a school

house site, or the erection, removal or sale of a school house. Said election shall be conducted and votes canvassed in the same manner as at the annual election of school officers. Three notices of the time, place and purpose of such meeting shall be posted in three public places in the district by the clerk at least ten days prior to such meeting. If a majority of the voters present at such meeting shall by vote select a school house site, or shall be in favor of the purchase, exchange or sale of the school house, as the case may be, the board shall locate, purchase, exchange or sell such site, or erect, remove or sell such school house, as the case may be, in accordance with such vote; provided, that it shall require a vote of two-thirds of the voters present and voting at such meeting to order the removal of the school house and such school house so removed cannot again be removed within three years from the date of such meeting; provided, further, that whenever a school house is to be purchased, erected or constructed in a common school district, the school board shall consult with the county superintendent of schools and the county superintendent of health with regard to plans providing for the proper construction, lighting, heating and ventilation; provided, further, that it shall be the duty of the state superintendent of public instruction to furnish plans for school houses of one and two rooms as will be in accord with the best ideas pertaining to heating, lighting, ventilating and other sanitary requirements.

2. The county superintendent of health, the chairman of the board of county commissioners and the county superintendent of schools of each county are hereby constituted a board for the purpose of inspecting school houses and outbuildings with reference to their sanitary condition, and whenever the county superintendent shall report to said board of inspection that a school house or outbuilding is in an unsanitary or unsafe condition said board shall inspect the same and recommend to the district school board that such changes or repairs be made as are necessary to make such building or buildings sanitary, safe and fit for school purposes.

Approved March 14, 1907.

## CHAPTER 97.

[H. B. No. 75—Walker]

### SCHOOL CENSUS AND ANNUAL SCHOOL REPORT.

AN ACT to Amend Section 835 of the Revised Codes of 1905, Providing for the Enumeration of Children of School Age.

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

§ 1. AMENDMENT.] Section 835 of the revised codes of 1905 is amended to read as follows:

§ 835. SCHOOL CENSUS. ANNUAL REPORT.] The school board shall cause the clerk to make an enumeration between the first and twentieth day of June of each school year, of all unmarried persons of school age, being over six and under twenty, having their legal residence in the district, exclusive of any unmarried person of school age who is supported wholly at the expense of the state at any institution for the blind, institution for deaf and dumb, institution for feeble minded, the reform school or any model school in connection with any state normal school, giving the names and ages of such persons and the names of parents and guardians having the care and custody of each; also the names, ages and postoffice address of parents and guardians of each deaf and dumb, blind and feeble minded person between the ages of five and twenty-five years, residing in the district, including all such persons as may be too deaf or feeble minded to acquire an education in the common schools. The enumeration shall be made upon and in accordance with the blanks furnished therefor by the county superintendent, and shall be returned to the county superintendent prior to the tenth day of July; provided, that in districts where the number of persons of school age attending school for a period of sixty days during the school year is less than fifty per cent of the total enumeration, it shall be the duty of the county superintendent to withhold from such district its apportionment of state and county tuition funds until such time as a satisfactory explanation of the failure to send pupils to school is made by the school board of said district to the county superintendent and superintendent of public instruction. A copy of the enumeration of such deaf and dumb persons shall be furnished the superintendent of the school for the deaf; a copy of the enumeration of such blind persons shall be furnished to the superintendent of the school for the blind; and the enumeration of such feeble minded persons shall be furnished the superintendent of the institution for the feeble minded by the county superintendent immediately upon receipt of the same. A copy of such enumeration shall also be kept in the office of the district clerk. The board shall also cause the district clerk to make out an annual report for the year beginning July 1 and ending June 30, containing such financial and statistical statements and items as shall be required by the superintendent of public instruction, upon and in accordance with the blanks furnished therefor by the county superintendent. Such report shall be carefully examined and certified as correct by the board at its regular meeting in July and transmitted to the county superintendent prior to the first day of August following. A copy of such report shall be filed in the district clerk's office.

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

Approved March 13, 1907.

# CHAPTER 98.

[S. B. No. 162—Talcott]

## COMPULSORY EDUCATION.

AN ACT to Amend Section 894 of the Revised Codes of 1905, Relating to Education.

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

§ 1. AMENDMENT.] Section 894 is amended and re-enacted to read as follows:

§ 894. SCHOOL AGE, WHO EXEMPT FROM COMPULSORY ATTENDANCE.] Every parent, guardian or other person who resides in any school district or city, who has control of any child or children of or between the ages of eight and fourteen years, shall send such child or children to a public school in each year during the entire time the public schools of such district or city are in session, and every parent, guardian or other person having control of any deaf or feeble minded child or youth between seven and twenty-one years of age shall be required to send such deaf child to the school for the deaf at the city of Devils Lake, and any feeble minded child to the institution for the feeble minded at Grafton; provided, that such parent, guardian or other person having control of any child shall be excused from such duty by the school board of the district or by the board of education of the city or village whenever it shall be shown to their satisfaction, subject to appeal as provided by law, that one of the following reasons therefor exists:

1. That such child is taught for the same length of time in a parochial or private school, approved by such board; that no school shall be approved by such board unless the branches usually taught in the public schools are taught in such schools.

2. That such child is actually necessary to the support of the family.

3. That such child has already acquired the branches of learning taught in the public schools.

4. That such child is in such a physical or mental condition (as declared by the county physician, if required by the board) as to render such attendance inexpedient or impracticable. If no school is taught the requisite length of time within three miles of the residence of such child by the nearest route, such attendance shall not be enforced, except in cases of consolidated schools where transportation may be arranged for by the school board; provided, that in districts where children reside beyond the three-mile limit and school facilities are not otherwise provided, the district school

board shall provide transportation for such children to and from school. In districts having consolidated schools where transportation is arranged for by the school board, or in other districts providing transportation, attendance shall be required of pupils residing within four miles of such school or schools, but this provision shall not apply to deaf or feeble minded.childen in this state. The common schools provided for in this chapter shall be at all times equally free, open and accessible to all children over six and under twenty years of age, residents of the school districts where they are held or entitled to attend school, under any special provisions of this chapter, subject to the regulations herein made, and to such regulations as the several school boards and boards of education may prescribe, equitably and justly and not in conflict with the provisions of law; provided, that no parent, guardian or person having control over such child shall be prosecuted without being first notified by the county superintendent of schools or the president of the school board in the district in which said child resides, and being given ten days within which to comply with the law; provided, further, that this section shall not be construed to apply to parents, guardians or other persons having control of any child or children between the ages of eight and fourteen, who desire to send such child or childen for a period not exceeding four months in any year to any parochial school for the purpose of preparing such child or children for certain religious duties.

Approved March 14, 1907.

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## CHAPTER 99.

[S. B. No. 129—Cashel]

### AID TO HIGH SCHOOLS.

AN ACT to Amend and Re-enact Sections 1034, 1035 and 1036 of the Revised Codes of 1905, Relating to Education.

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

§ 1. Sections 1034, 1035 and 1036 of the revised codes of 1905 are amended to read as follows:

§ 1034. SCHOOLS VISITED ONCE EACH YEAR. WHAT SCHOOLS TO RECEIVE STATE AID. APPROPRIATION.] The high school board shall cause each school receiving aid under this article to be visited, at least once each year, by a committee of one or more members, or by some person designated by the high school board, who shall carefully inspect the instruction and discipline of the preparatory classes and make a written report on the same immediately; provided, that no money shall be paid in any case until after such

report shall have been received and examined by the board and the work of the school approved by the board. The said board shall receive applications from such schools for aid as hereinafter provided, which applications shall be received and acted upon in order of their reception. The said board shall apportion to each of said schools, which shall have fully complied with the provisions of this article, and whose application shall have been approved by the board, the following sums, to wit: Eight hundred dollars each year to each school maintaining a four years' high school course and doing four years' high school work. The sum of five hundred dollars each year to each school having a three years' high school course and doing three years' high school work. The sum of three hundred dollars each year to each school having a two years' high school course and doing two years' high school work; provided, that the monies so appropriated to any high school shall be used to increase the efficiency of the high school work; provided, that not more than forty per cent of the money appropriated must be used in any one year for libraries, laboratories and other apparatus and equipment; provided, further, that the total amount of apportionment and expenses under this article shall not exceed forty-five thousand dollars in one year. The sum of forty-five thousand dollars is hereby appropriated annually for the purposes of this article, to be paid out of any monies in the state treasury, not otherwise appropriated, which amount, or so much thereof as may be necessary, shall be paid upon the itemized vouchers of said board, duly certified and filed with the state auditor; provided, however, that in case the amount appropriated and available under this article for the payment of aid to such schools shall in any year be insufficient to apportion each of such schools as are entitled thereto the full amount intended to be apportioned to the high schools of the various classes, then, in such case such amount as is apportioned and available shall be apportioned pro rata among the schools entitled thereto.

§ 1035. NO COMPENSATION. EXPENSES.] The members of the board shall serve without compensation, but the actual and necessary expenses of the board, any clerical officer of the board, or any examiner shall be paid in the same manner as those of state officers; provided, that the total expense, including the apportionment to the schools aforesaid shall not exceed forty-five thousand dollars in any one year.

§ 1036. DISCRETIONARY POWERS. ASSISTANT EXAMINER.] The high schol board shall have full discretionary power to consider and act upon applications of schools for state aid and to prescribe conditions upon which said aid shall be granted, and it shall be its duty to accept and aid such schools only as will, in its opinion, if aided, efficiently perform the service contemplated by law; but in each county five schools complying with the prescribed conditions shall have a right to aid from this appropriation before aid may

be granted to a sixth school in any county. Any school once accepted and continuing to comply with the law and regulations of the board made in pursuance thereof shall be aided not less than three years. The board shall have power to establish any necessary and suitable rules and regulations relating to examinations, reports, acceptance and classification of schools, courses of study and other proceedings under this article. Any assistant examiner appointed by the high school board as authorized by law shall be entitled to receive such compensation as the board may allow, not exceeding three dollars per day; provided, that no such compensation shall be paid to any person receiving a salary from the state or from any state institution.

Approved March 4, 1907.

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## CHAPTER 100.

[S. B. No. 333—Senate Committee on Education]

### OBJECTS OF EDUCATIONAL INSTITUTIONS.

AN ACT to Amend Sections 1050, 1051, 1082, 1092 and 1231 of the Revised Codes of 1905, Relating to Education.

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

§ 1. AMENDMENT.] Sections 1050, 1051, 1082, 1092 and 1231 of the revised codes of 1905 are amended and re-enacted to read as follows:

§ 1050. OBJECT AND DEPARTMENTS OF THE UNIVERSITY.] The object of the university shall be to provide the means of acquiring a thorough knowledge of the various branches of learning connected with scientific, industrial and professional pursuits, in the instruction and training of persons in the theory and art of teaching, and also instruction in the fundamental laws of this state and of the United States in regard to the rights and duties of citizens, and to this end it shall consist of the following branches or departments:

1. The college or department of arts.
2. The college or department of letters.
3. The teachers' college.
4. The school of mines, the object of which shall be to furnish facilities for the education of such persons as may desire to receive instructions in chemistry, metallurgy, mineralogy, geology, mining, milling and engineering.
5. The military department or school, the object of which shall be to instruct and train students in the manual of arms and such military maneuvers and tactics as are taught in military colleges.

6. Such professional or other colleges or departments as now are or may from time to time be added thereto, or connected therewith, and the board of trustees is hereby authorized to establish such professional and other colleges or departments as in its judgment may be deemed necessary and proper, but no money shall be expended by the board in establishing and organizing any of the additional colleges or departments provided for in this section, until an appropriation therefor shall have first been made.

§ 1051. COURSES OF INSTRUCTION.] The college or department of arts shall embrace courses of instruction in mathematical, physical and natural sciences, with their application to industrial arts such as agriculture, mechanics, engineering, mining and metallurgy, manufactures, architecture and commerce; and such branches included in the college of letters as shall be necessary properly to fit the pupils in the scientific and practical courses for their chosen pursuits and in military tactics. In the teachers' college the proper instruction and learning in the theory and art of teaching and all the various branches and subjects needful to qualify for teaching in the common and high schools; provided, that all instruction in the teachers' college shall be above the grade of secondary schools, and as soon as the income of the university will allow, in such order as the wants of the public shall seem to require, the courses of science and their application to the practical arts shall be expanded into distinct colleges of the university, each with its own faculty and appropriate title. The college of letters shall be co-existent with the college of arts and shall embrace a liberal course of instruction in languages, literature and philosophy, together with such courses or parts of courses in the college of arts as the trustees shall prescribe.

§ 1082. OBJECTS OF NORMAL SCHOOLS.] The objects of such normal schools shall be to prepare teachers in the science of education and the art of teaching in public schools. The board of trustees, with the assistance of the respective faculties, shall adopt the full course of study prescribed for that purpose, which shall embrace the academic and professional studies usually taught in normal schools; provided, that such academic and professional studies shall not extend more than two years beyond the course of study prescribed in a high school of the first class. Such schools shall in all things be free from sectarian control.

§ 1092. OBJECT OF ACADEMY OF SCIENCE.] The North Dakota academy of science heretofore established at Wahpeton is hereby continued as such. The object of such academy shall be to furnish instruction in the pure and applied sciences, mathematics, languages, political science, and history as is usually given in schools of technology below the junior year, the chief object being the training of skilled workmen in the most practical phases of applied science. A general science course may also be offered, consisting of three years' work above the high school course. Upon com-

pletion of either of the above courses the board of trustees may grant appropriate certificates of the work accomplished.

§ 1231. OBJECT OF SCHOOL OF FORESTRY.] A state school of forestry, to be known as the North Dakota school of forestry, is located at Bottineau, in the county of Bottineau, state of North Dakota, by virtue of the vote taken thereon according to law. The object of the school of forestry shall be to furnish the instruction and training contemplated in an agricultural high school, emphasizing those subjects that have a direct bearing on forestry and horticulture.

Approved March 19, 1907.

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## CHAPTER 101.

[H. B. No. 129—Brodie]

### PAYING TEACHERS IN UNORGANIZED COUNTIES.

AN ACT Making an Appropriation to Pay School Teachers for Teaching Under Contract in School Districts in Unorganized Territory in this State, Which School Districts Were not Lawfully Organized, and Providing the Manner of Submitting their Respective Claims.

*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 one thousand dollars or so much thereof as may be necessary for the purpose of paying certain school teachers for services rendered under contract as teachers in school districts heretofore organized in unorganized territory and which were subsequently declared illegal.

§ 2. WHAT TEACHERS PAID.] In cases where a school district has been organized in good faith and the officers thereof have entered into contracts with certain persons to teach school in said districts and such persons in pursuance of such contracts did teach said schools and were not paid therefor, and which said school districts subsequently were declared by the courts of this state illegally organized, such teachers shall be allowed out of the money hereby appropriated the amounts due such teachers under their respective contracts for the time actually spent in teaching such schools, and in addition to the said sum due them they shall be allowed the sum of ten dollars for expenses in submitting proofs of their claims.

§ 3. PROOF SUBMITTED, HOW.] All persons making claims under the provisions of this act shall submit proofs of their said claims, under oath in the form of affidavit, to the state board of

auditors, and such claims before presentation to the said board shall be submitted for approval to the chairman or some member of the board of directors of the district in which such services were rendered.

§ 4. EMERGENCY.] An emergency exists in this that there is now no law authorizing the payment of salaries to school teachers who have rendered services under contracts as teachers in districts of this state heretofore organized, and which were subsequently declared unlawfully organized, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 5, 1907.

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## CHAPTER 102.

[H. B. No. 64—Casey]

### SCHOOL LAWS COMPILED.

AN ACT Providing for the Revision and Compilation of the School Laws of the State of North Dakota.

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

§ 1. GOVERNOR AND ATTORNEY GENERAL COMPILE. MAKE REPORT.] Acting under the supervision of the governor, the attorney general shall revise, compile, arrange, simplify and classify the school laws of this state which may be in force on the first day of July, 1907. The laws so compiled shall be comprehensively and accurately indexed, prefaced with a general table of contents and shall have brief and comprehensive annotations. The said attorney general and governor shall report to the next session of the legislative assembly any contradictions, inconsistencies and omissions found in the existing laws and shall draft and report to that session of the said legislative assembly such school laws as, in their judgment, would be of use and benefit to the state, for the information, assistance and action of said legislative assembly.

§ 2. COMPILATION TO BE ACTED UPON BY THE LEGISLATIVE ASSEMBLY.] When the revision, compilation and report is made to the legislature, a bill embodying such revision, compilation and report shall be introduced into the legislature, and upon its passage and approval by the governor the laws contained in such revision and compilation shall thereafter constitute the school laws for the state of North Dakota, and upon the issuance of a proclamation by the governor, said school laws shall take effect and thereafter be in force and be received as evidence of the school laws of this state in all courts thereof.

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

Approved March 12, 1907.

## CHAPTER 103.

[H. B. No. 301—Duncan]

### DEPOSITORIES OF SCHOOL FUNDS.

AN ACT to Amend Sections 926, 928 and 935 of the Revised Codes of North Dakota, 1905, Relating to Depositories of School Funds.

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

§ 1. AMENDMENTS.] Sections 926, 928 and 935 of the revised codes of North Dakota, 1905, are amended to read as follows:

§ 926. WHEN TIME DEPOSITS MAY BE MADE.] Whenever there shall be accumulated in the sinking fund or any other revenue, city or school district fund, established by law, in any of the cities or school districts of this state, an amount of money exceeding two hundred dollars, and for which there is no immediate use, the city council or school board of such city or school district is authorized and empowered to direct a time deposit of such funds for a period of one year or six months, as they may deem expedient, either in one or more of the city or school district depositories created by law, or such state or national bank as the city council or school board may designate.

§ 928. MAXIMUM RATE OF INTEREST ON CALL DEPOSITS.] To further secure the safety of the city or school district funds deposited under the provisions of this article the city council or school board shall satisfy itself of the responsibility of the several banks proposing to act as depositories, and any bank offering more than four per cent per annum on deposits, subject to check, shall not be designated as a depository under the provisions of this article; provided, this act shall not apply to school districts in incorporated cities or villages.

§ 935. EXCEPTIONS TO LAW.] It shall not be incumbent upon the city council or school board to designate depositories as herein provided for until the amount in such city or school treasury equals or exceeds the sum of five hundred dollars.

§ 2. EMERGENCY.] Whereas, an emergency exists in that there is no law covering the provisions of this act, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 13, 1907.

## CHAPTER 104.

[H. B. No. 99—Pugh.]

### TEACHERS' CERTIFICATES.

AN ACT to Amend Section 872 of the Political Code of the Revised Codes of 1905 of the Codes of North Dakota, Relating to Examinations and Certificates for Teachers in Public Schools.

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

§ 1. AMENDMENT.] Section 872 of the political code of the revised codes of 1905 of the codes of North Dakota, be and the same hereby is amended so that the same shall be and read as follows:

§ 872. FEE FOR CERTIFICATE. CERTIFICATE, HOW REVOKED.] The superintendent of public instruction shall require a fee of five dollars from each applicant for a life professional certificate, a fee of three dollars for a state certificate of the first or second class, and a fee of two dollars from each applicant for a special certificate, which fees shall be used by him to aid in the establishment and maintenance of teachers' reading circles and in the professionalizing of teaching in the state in such other ways as he may deem advisable. He shall revoke at any time any certificate issued in this state for any cause which would have been sufficient ground for refusing to issue the same had the cause existed or been known at the time it was issued, and shall revoke the same for willful violation of any teacher's contract entered into by the holder of any such certificate and any school board or board of school trustees in this state.

Approved March 12, 1907.

## CHAPTER 105.

[H. B. No. 198—Chapman]

### SALARY COUNTY SUPERINTENDENT.

AN ACT to Amend Section 777 of the Revised Codes of 1905, Relating to Education.

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

§ 1. AMENDMENT.] Section 777 of the revised codes of 1905 is enacted to read as follows:

§ 777. SALARY. DEPUTY. TRAVELING EXPENSES.] The salary of the county superintendent of schools shall be as follows: In each county having one school and not over five, one hundred and fifty dollars; six schools and not over ten, three hundred dollars; eleven schools and not over fifteen, four hundred dollars; sixteen schools and not over twenty, five hundred dollars; twenty-one schools and not over twenty-five, six hundred dollars; twenty-six schools and not over thirty, seven hundred dollars; thirty-one schools and not over thirty-five, eight hundred dollars; thirty-six schools and not over forty, nine hundred dollars; forty-one schools and not over fifty, one thousand dollars; and for each additional school ten dollars additional; provided, that in computing the salary of such superintendent no school shall be included unless the same shall have been taught at least four months during the preceding school year; provided, further, that such salary shall not exceed one thousand five hundred dollars in any county where the number of schools does not exceed one hundred thirty, and in counties where the number of schools exceeds one hundred thirty, the county superintendent shall be allowed in computing such salary five dollars additional for each school above one hundred thirty; provided, always, that such salary shall in no case exceed two thousand dollars. In addition thereto he shall receive ten cents a mile for the distance actually and necessarily traveled by him in the discharge of his duties. He shall at the end of every three months make and furnish to the county commissioners an itemized statement, subscribed and sworn to, of the distance so traveled in the discharge of his duties, which shall be audited and ordered paid by the board of county commissioners. The amount of his salary and the appropriation for deputy shall be determined each year by the actual number of schools or separate departments in graded and high schools over which said superintendent had official supervision during the preceding year and the same shall be paid out of the county general fund, monthly, upon the warrant of the county auditor; provided, that whenever the number of schools in a county is diminished by reason of the consolidation of schools or other provision for the instruction of pupils in any district or districts, the same number of schools shall be counted for such district or districts in computing the salary of the county superintendent as existed before said consolidation or other provision until such time as the number of separate departments in the general school or schools provided for the pupils of vacated schools shall equal the number of original schools vacated. In each county which shall be organized for school purposes after the adoption of this code the county superintendent shall be paid a salary at the rate of one hundred dollars a year until the first Monday in January next following his election, after which his salary shall be as provided for in this section. In counties having fifty or more schools, the county superintendent may appoint a deputy for

whose acts as such he shall be responsible, which deputy shall be entitled to a salary equal to fifty per cent of the county superintendent's salary; provided, further, that in counties having a population of thirty thousand or more the county superintendent shall be allowed one deputy for each one hundred schools or major fraction thereof, under the supervision of said superintendent. Such deputies shall each receive the salary specified in the preceding paragraph of this section.

Approved March 12, 1907.

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## CHAPTER 106.

[S. B. No. 144—Talcott]

### ATTACHING ADJACENT TERRITORY FOR EDUCATIONAL PURPOSES.

AN ACT to Amend Section 949 of the Revised Codes of 1905, Relating to Education.

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

§ 1. AMENDMENT.] Section 949 of the revised codes of 1905 is amended to read as follows:

§ 949. ADJACENT TERRITORY, HOW ATTACHED FOR SCHOOL PURPOSES.] When any city, town or village has been organized for school purposes and provided with a board of education under any general law, or a special act, or under the provisions of this article, territory outside the limits thereof but adjacent thereto may be attached to such city, town or village for school purposes by the board of education thereof, upon application in writing signed by a majority of the voters of such adjacent territory; provided, that no territory shall be annexed which is at a greater distance than three miles from the central school in such special district, except upon petition signed by two-thirds of the school voters residing in the territory which is at a greater distance than three miles from the central school in such special district; and, upon such application being made, if such board shall deem it proper and to the best interests of the school of such corporation and of the territory to be attached, an order shall be issued by such board attaching such adjacent territory to such corporation for school purposes, and the same shall be entered upon the records of the board. Such territory shall from the date of such order be and compose a part of such corporation for school purposes only. Such adjacent territory shall be attached for voting purposes to such corporation, or, if the election is held in wards, to the ward or wards or election

precinct or precincts to which it lies adjacent; and the voters thereof shall vote only for school officers and upon such school questions; provided, that nothing in this act shall prevent any such adjacent territory being annexed because of such adjacent territory being in an adjoining county, and that the county commissioners shall detach any part of such adjacent territory which is at a greater distance than three miles from the central school in such special district and attach to any adjacent school or special district or districts upon petition to do so, signed by three-fourths of the legal voters of such adjacent territory, and all assets and liabilities shall be equalized according to section 864.

Approved March 14, 1907.

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## CHAPTER 107.

[S. B. No. 86—Purcell]

### MILL TAX FOR EDUCATIONAL INSTITUTIONS.

AN ACT to Amend Sections 838, 839, 840, 841 and 842, Chapter 9, of the Political Code of the State of North Dakota, Revised Codes of 1905, Relating to Education.

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

§ 1. AMENDMENT.] Section 838 be and the same is hereby amended to read as follows:

§ 838. MAINTENANCE OF STATE EDUCATIONAL INSTITUTIONS.] 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, the school for the deaf at Devils Lake, the school of forestry at Bottineau, the North Dakota academy of science at Wahpeton and the industrial school at Ellendale, 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. AMENDMENT.] Section 839 be and the same is hereby amended to read as follows:

§ 839. 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 calculated and paid over to the state treasurer the same as other state taxes.

§ 3. AMENDMENT.] Section 840 be and the same hereby is amended to read as follows:

§ 840. TAXES, HOW APPORTIONED.] Such taxes so levied shall be apportioned by the state treasurer to the several institutions herein mentioned as follows: Thirty-three one-hundredths of a mill to the state university and school of mines at Grand Forks; twenty one-hundredths of a mill to the agricultural college at Fargo; fifteen one-hundredths of a mill to the state normal school at Valley City; thirteen one-hundredths of a mill to the state normal school at Mayville; six one-hundredths of a mill to the school for the deaf at Devils Lake; two one-hundredths of a mill to the school of forestry at Bottineau; four one-hundredths of a mill to the North Dakota academy of science at Wahpeton; seven one-hundredths of a mill to the industrial school at Ellendale; provided, that all moneys hereafter collected from any tax heretofore levied, shall be apportioned as herein provided.

§ 4. AMENDMENT.] Section 841 is hereby amended to read as follows:

§ 841. 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 school for the deaf at Devils Lake, the school of forestry at Bottineau, the North Dakota academy of science at Wahpeton, and the industrial school at Ellendale, 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 maintenance of said institutions hereinbefore mentioned.

§ 5. AMENDMENT.] Section 842 is hereby amended to read as follows:

§ 842. FUNDS, WHEN PAID OVER.] All moneys received as interest, and all moneys received for rents, for penalties, for permits, and all moneys received from any other source from the respective lands of the different educational institutions hereinafter mentioned, including the North Dakota blind asylum (except moneys received as principal from the sale of lands belonging to the state university and school of mines, lands belonging to the school for the deaf, lands belonging to the two normal schools, lands belonging to the North Dakota academy of science, lands belonging to the industrial school), shall be paid over to the respective treasurers of the educational institutions above mentioned, by the state auditor on the first day of January, April, July and October in each year. The funds herein referred to shall be subject to the order of the

respective boards of trustees of each institution hereinbefore mentioned and shall be used for the maintenance of such institutions respectively.

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

Received by the governor February 28, 1907, at 5 p. m.

Filed in the office of the secretary of state, March 6, 1907, at 10:15 a. m.

Became a law without executive approval.

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## CHAPTER 108.

[S. B. No. 247—Johnson of McLean]

### EMINENT DOMAIN.

AN ACT to Amend Section 7598 of the Revised Codes of 1905, Relating to the Law of Eminent Domain.

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

§ 1. AMENDMENT.] Section 7598 of the revised codes of North Dakota of 1905 is hereby amended to read as follows:

§ 7598. WHEN JUDGMENT PAID.] The plaintiff must, within thirty days after the final judgment, pay the sum of money assessed, except where school or public land upon which no contract is outstanding is taken for public use under this chapter, the plaintiff shall pay for such land upon the same terms as set out in section 171 of this code.

§ 2. EMERGENCY.] It is hereby declared that an emergency exists, and that this act shall therefore be in full force and effect from and after its passage and approval.

Approved March 15, 1907.

# ELECTIONS

## CHAPTER 109.

[S. B. No. 1—Sharpe.]

### PRIMARY ELECTION.

AN ACT Providing for the Selection of Candidates for Election by Popular Vote, and Relating to their Nomination and the Perpetuation of Political Parties.

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

§ 1. INTENT OF ACT.] It is the intention of this act to reform the methods by which political parties shall make nominations of candidates for all public offices by popular vote. It shall be liberally construed so that the real will of the electors may not be defeated by any informality or failure to comply with all provisions of law in respect to either the giving of any notice or the conducting of the primary or certify the results thereof.

§ 2. HELD, WHEN. WHAT OFFICES, FOR.] On the last Wednesday in June of every year in which occurs a general election there shall be held, in lieu of party caucuses and conventions, a primary election in the various voting precincts of this state, for the nomination of candidates for the following offices to be voted for at the ensuing general election, viz: Members of congress, state officers, county officers, district assessors and the following officers on the years of their regular election, viz: Judges of the supreme and district courts, members of the legislative assembly and county commissioners, and United States senator in the year previous to his election by the legislative assembly; provided, however, that the provisions of this act shall not be construed to include or provide for the nomination of presidential electors or delegates to national conventions. Such delegates to national conventions shall be nominated and elected, and presidential electors nominated as now or hereafter may be provided for by the various state central committees. For special elections for the officers enumerated herein the nominations shall be made as otherwise provided by law.

§ 3. PETITION REQUIRED. FEES FOR FILING. AFFIDAVIT OF CANDIDATES.] Every candidate for United States senator, member of congress, state officers, judge of the supreme and district courts, shall, not more than sixty days nor less than thirty days prior to said primary election, present to the secretary of state a petition

giving his name, postoffice address, the title of the office to which he aspires and the party which he represents, containing the names of 3 per cent of the total vote cast for the candidate of the party with which he affiliates, for the same position at the last general election; provided, however, that in no case shall more than three hundred names be required. Each name on the petition shall be that of a legal voter and be subscribed under a certified party heading.

Upon receipt by the secretary of state of such petition and the payment to him of an amount equal to one per cent of the annual salary of the office to which he aspires, and when accompanied by the following affidavit he shall place the applicant's name upon the primary election ballot in the columns of his party as hereinafter provided; provided, however, that no fee shall be required of candidates for United States senator. Said affidavit may be substantially as follows:

State of North Dakota, }
County of ..... } ss.

I, ....., being duly sworn, depose and say that I reside in the county of.....and state of North Dakota; that I am a qualified voter therein and a .....; that I am a candidate for nomination to the office of ..... to be chosen at the primary election to be held on the ..... 19.., and I do hereby request that my name be printed upon the primary election ballot as provided by law, as a candidate of the ..... party for said office.

.....

Subscribed and sworn to before me this ..... day of ....., 19.....

.....

Notary Public, North Dakota.

The fees designated in this section to be paid to the secretary of state shall be turned over by him to the state treasurer to be covered into the general fund.

§ 4. COUNTY AND LEGISLATIVE CANDIDATES, PETITION AND PLEDGE OF.] Every candidate for a county or district office shall not more than forty days nor less than thirty days and before 4 o'clock p. m. of the thirtieth day prior to any primary election present to the county auditor a petition giving his name, postoffice address, the title of the office to which he aspires and the party which he represents, containing the names of 5 per cent of the total vote cast for the candidate of the party which he represents, containing the names of 5 per cent of the total vote cast for the candidate of the party with which he affiliates for the same position at the last general election; provided, however, that in no case shall there be more than two hundred names; and, provided further, that the petitions of all candidates for members of the legislative

assembly shall, in addition to the requirements hereinbefore provided, contain the following pledge, viz: I, the undersigned, a candidate for the office of member of the legislative assembly of the state of North Dakota, do obligate myself to the people of the state of North Dakota and to the people of my legislative district that during my term of office I will support and vote for that candidate for United States senator in congress of the party of which I am a member, who has received a majority of such party votes for that position at the primary election next preceding the election of United States senator in congress; provided, that in case no candidate of my party receives forty per cent of all the votes cast for the office of United States senator of my party, then and in that case I pledge myself to vote for the candidate of my party who receives the highest number of votes of my party at the general election succeeding such primary election.

Each name on the petition shall be that of a qualified voter and be subscribed under a party heading. Each signer of a nomination paper shall sign but one such paper for the same office; he shall add his residence with the street number, if any, and the date of signing. Upon the receipt of such petition by the county auditor and the payment to him of an amount equal to one per cent of the annual salary of the office to which he aspires, except for state senators twenty dollars and representatives ten dollars, and in legislative districts having more than one county, the fee shall be equally divided between such counties and excepting candidates for county commissioners, district assessors, surveyor and coroner, who shall pay three dollars—and candidates for county constables and county justices of the peace shall pay one dollar and when accompanied by an affidavit as provided in section 3 of this act, he shall place the name of such applicant upon the primary election ballot in the columns of his party as hereinafter provided.

When a legislative district is composed of more than one county the petition herein provided for shall be filed with the county auditor of the county where the candidate resides, and such county auditor shall certify to the county auditors of the other counties composing such legislative districts the names of the candidates filing such petitions. For the purpose of this act candidates for the office of sheriff shall pay the same fee as candidates for the office of auditor. The money so received by the county auditor shall be turned over by him to the county treasurer to be covered into the general fund.

§ 5. NAMES ON PRIMARY BALLOT, HOW SECURED. VACANCIES, HOW FILLED.] Applications to have a name placed on the primary election ballots for nomination may be made by five qualified electors for any office designated in this act, by presenting the petition required in sections 3 or 4 to the proper official, and paying the amount required, accompanied by the following affidavit:

State of North Dakota,
} ss.
County of .....

I, A....., B....., C....., D..... and E, being duly sworn, each for himself, deposes and says that he is a qualified voter in the state of North Dakota, that he hereby makes application to have the name of ..... printed on the primary election ballot of the ..... party for the office of ....., to be voted for at the primary election to be held on the ..... day of ....., 19....; that said ..... is to the best of his knowledge, information and belief, a ..... and a qualified voter and eligible to hold the office of ..... under the constitution.

.....
.....
.....
.....
.....

Subscribed and sworn to before me this.....day of....., 19.....

.....
Notary Public, North Dakota.

When such application is received by the proper officer, accompanied by the necessary fee, as required in sections 3 and 4 of this act, he shall place the name on the primary election ballot as a candidate of the party named in said petition; provided, that such affidavit and petition shall not be filed without the written consent of such person to be nominated indorsed thereon; and provided, further, that when the time has expired at which a petition may be filed, and a vacancy exists in the primary election ballot of any political party by reason of no petition having been filed for such nomination, then and in that case the same may be filled by affidavit and petition as provided in this section, on the payment of one-half of the usual fee, and such affidavit and petition must be filed with the proper officers at least twenty days before the primary election; and provided, further, that no petition shall be circulated or signed more than ninety days previous to the time when any petition is required to be filed as herein provided for and any signatures to a petition secured prior to ninety days shall not be counted.

§ 6. FORM OF PETITION.] The petitions required in section 3, 4 and 5 of this act may be one continuous list of names under the proper political title or principle, or there may be a number of such petitions using the same title, giving the aggregate of names required.

§ 7. NOMINATIONS BY STICKERS.] A candidate may be nominated by having his name written on or by printed stickers placed

over the name or in a blank line left for that purpose underneath the group in each official position; but not more than one name shall be written or printed on any such stickers.

§ 8. ELIGIBILITY OF CANDIDATES.] All persons nominated in accordance with the provisions of this act shall be eligible as candidates to be voted for at the ensuing general election.

§ 9. BALLOTS, FORM OF. DUTIES OF JUDGES AND INSPECTORS.] The primary election and primary election ballot shall be provided for, arranged and conducted and all expenses paid as now provided by law for general elections, except as otherwise provided for in this act.

There shall be separate ballots for each party or principle and they shall all be of the same size, texture and color, except sample ballots, which shall be printed on tinted paper.

The ballot shall be entitled "Primary Election Ballot."

The names of all aspirants for nomination of each political party or principle for the different offices shall be arranged in separate groups in their order, on separate ballots under a proper political designation, leaving one or more blank lines or spaces below each group of names on which may be written or placed a name or a printed sticker attached for the nomination of the candidate. No squares shall be left at the head of the ballot.

At the head of each ballot shall be placed the title of the political party or principle that it represents.

At the left of each group shall be placed the title of the office, followed by a bracket, indicating the number of names in such group. Above each group there shall be a space in which shall be printed the number of names in that group to be voted for as follows:

"Vote for ..... name (or names) only."

Immediately above the names of the candidates to be voted for shall be printed the following:

"To vote for a person whose name is printed on the ballot mark a cross (X) in the square at the right of the name of the person for whom you desire to vote.

"To vote for a person whose name is not printed on the ballot, write or paste his name in the blank space provided for that purpose."

Each ballot shall contain two columns, and each column is to have as nearly as possible the same number of names of candidates thereon, except that no groups or spaces beneath any group shall be divided, and the candidates for the various offices shall appear upon the ballot in the following order, commencing at the column to the left, viz:

Congressional—

United States senator .....Vote for one

Representatives in congress .....district .....Vote for....

State Officers—

Governor .....Vote for one
Lieutenant governor .....Vote for one
Justice of the supreme court .....Vote for ....
Secretary of state .....Vote for one
State auditor .....Vote for one
State treasurer .....Vote for one
Superintendent of public instruction .....Vote for one
Attorney general .....Vote for one
Commissioner of insurance .....Vote for one
Commissioner of agriculture and labor.....Vote for one
Commissioner of railroads .....Vote for three

District Judges—

For district judge ..... district .....Vote for one

Legislative—

State senator .....district .....Vote for one
Members of the house of representatives.....Vote for ....

County—

Sheriff .....Vote for one
Auditor .....Vote for one
Treasurer .....Vote for one
Clerk of district court .....Vote for one
Register of deeds .....Vote for one
State's attorney .....Vote for one
County judge .....Vote for one
Superintendent of schools .....Vote for one
Public administrator .....Vote for one
County surveyor .....Vote for one
County coroner .....Vote for one
County commissioner ..... district .....Vote for one
District assessor ..... district .....Vote for one
County constable .....Vote for ....
County justices of the peace .....Vote for ....

A square shall be placed following the name to the right of every candidate and the voter shall place a cross (X) in such square following the name of each person he desires to vote for.

The judges and inspectors of election when handing a ballot to a voter shall inform him that he must vote for the candidates of the political party such ballot represents only, and the voter shall call for the ballot representing the party or principle with which he affiliates and he shall receive such ballot and no other.

§ 10. MUST VOTE PARTY BALLOT.] Any citizen otherwise eligible by law, affiliated with or representing the principles enumerated in the national platform of the following parties, are eligible to nomination under this act: The republican party, the democratic party, or any party designation that cast 5 per cent of the votes cast for governor at the last general election and it shall be unlawful for any person to call for or vote a ballot at the primary election

herein provided for, except a ballot representing the party or principle with which he affiliates, and any person who has reason to believe that the ballot called for by the voter does not represent the party or principle with which said voter affiliates, may challenge such vote, and he shall not be entitled to cast his ballot unless he makes and files with the inspector of such primary election an affidavit to the effect that such ballot represents the political party with which he affiliates.

§ 11. VACANCIES FILLED BY PARTY COMMITTEES.] Should a vacancy occur in any of the offices for which nominations are made under this act by reason of resignation or death, where there is only one aspirant for such office, before the printing of the primary election ballot such vacancy may be filled by the regularly constituted committee of the party to which such vacancy belongs, and no petition nor fee shall be required.

§ 12. PERCENTAGE OF VOTES REQUIRED FOR NOMINATION.] If the total vote cast for any party candidate or candidates for any office for which nominations are herein provided for shall equal less than 30 per cent of the total number of votes cast for secretary of state of the political party, he or they represented at the last general election, no nomination shall be made in that party for such office, but if 30 per cent or more of such vote is cast and there is more than one candidate for any such office, the person receiving the highest number of votes shall be declared the nominee of such party for such office; provided, further, that where there is more than one person to be elected to the same office the persons to the number to be elected receiving the highest number of votes cast for such office shall be declared the nominees of the party for such offices.

§ 13. NOMINATIONS FOR UNITED STATES SENATOR.] Party candidates for the office of United States senator shall be nominated in the manner herein provided for the nominations of candidates for state offices.

The candidate receiving the highest number of votes at such primary election shall be the nominee of his party for the office of United States senator at the succeeding session of the legislative assembly which is to elect a United States senator; provided, however, that in case no candidate receives forty per cent of all the votes of his party cast for the office of United States senator, then the two candidates of each party who receives the highest number of votes cast at such primary election shall be placed upon a separate ballot to be voted for at the general election following. Such ballot shall be prepared in the same manner as the general election ballot, commonly known as the Australian ballot, is prepared. The candidates of each party are to be placed upon such ballot under their proper party heading. The names of each candidate shall be placed upon such ballot in the same manner as the candidate for state offices and shall be voted for in the same manner. The votes for

candidates for United States senator shall be canvassed and returned in the same manner as the votes cast for state officers. The candidate of each party receiving the highest number of votes at such general election shall be the nominee of his party for the office of United States senator, and it is hereby made the duty of the secretary of state to certify to the next session of the legislative assembly the name of the candidate of each party who receives the highest number of votes for the office of United States senator.

§ 14. BALLOTS, HOW PREPARED.] The primary election ballot shall be prepared, unless otherwise provided in this act, as defined in sections 614 and 616 of the revised codes of 1905.

§ 15. ARRANGEMENT OF NAMES ON BALLOT.] The names of candidates for each office upon the sample ballots shall be arranged alphabetically, according to surnames. The names of candidates under headings designating each official position shall be alternated on the official ballot in the printing, in the following manner, viz.:

First: The forms shall be set up with the names in the order in which they are placed upon the sample ballots prepared by the secretary of state for the state and district offices, and by the county auditor for the county offices.

In printing each set of official ballots for the various election precincts the position of the names shall be changed in each office division as many times as there are candidates in the office division or group in which there are the most names.

As nearly as possible an equal number of tickets shall be printed after each change.

In making the changes of position the printer shall take the line of type at the head of each office division and place it at the bottom of that division, shoving up the columns so that the name that was second before the change shall be first after the change.

After the ballots are printed, before being cut, they shall be kept in separate piles for each change of position, and shall then be piled by taking one from each pile and placing it upon the other pile to be cut, the intention being that every other ballot in the pile of printed sheets shall have names in different positions.

After the piles are made in this manner they shall be cut and placed in blocks as provided by the general election laws.

§ 16. LIST OF OFFICERS TO BE NOMINATED.] The secretary of state shall between the first day of April and the first day of May, in such year, direct and cause to be delivered to the county auditor of each county, a notice specifying the officers to be nominated under this act, whose term of office will expire between the first Monday in December and the first Monday in March, next succeeding, also specifying the several officers to be nominated in such county at the next primary election. The auditor to whom such notice is delivered shall cause notice of the same to be given as provided in section 637 of the revised codes of 1905.

§ 17. PROVISIONS OF ELECTION LAW APPLICABLE.] Excepting as herein otherwise provided, the following sections of chapter 8 of the political code of 1905, entitled "Elections," are hereby made applicable to primary elections and primary election ballots, under this act, to-wit: 605, 606, 607, 608, 609, 610, 611, 613, 614, 615, 616, 619, 620, 621, 622, 623, 624, 630, 635, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 654, 655, 656, 657, 658, 659, 660, 669, 671, 672, 673, 674, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, and 700.

§ 18. TALLY BOOKS. ARRANGEMENT OF NAMES.] Two tally books or two sets of tally sheets shall be provided for each political party or principle, having candidates to be voted for, at each voting precinct, the same to be furnished by the county auditor, at the same time and in the same manner that the poll books and ballots are furnished. The names of the candidates shall be placed on the tally sheets in the order in which they appear on the official sample ballot, and in each case shall have the proper party designation at the head thereof.

§ 19. POLLS, OPEN WHEN. CANVASS.] The polls shall be opened at 8 o'clock a. m. and remain open continuously until 5 o'clock p. m. When the polls are closed the judges and inspectors of such primary election shall open the ballot boxes, count the votes and compare the same with the clerk's lists, and should any irregularities appear they shall proceed as now provided by law. When the ballots compare with the clerk's lists, they shall proceed to canvass and place those of each political party in separate piles. The tally of the votes shall be separate for each political designation or principle and so returned by the judges and inspectors of election, giving the full vote for every candidate. The men's and women's votes shall be kept separately and so returned by the judges. The county canvassing board shall aggregate these for the candidates voted for.

§ 20. RETURNS.] The judges of such primary election in each precinct shall make a statement on blanks to be provided for that purpose, which shall be subscribed by them and filed in the office of the county auditor with the returns as follows: They shall contain the names of all persons voted for at the primary election, with the number of votes cast for each candidate and for what office. A separate statement shall be made for each political party or principle.

§ 21. POLL LISTS DELIVERED TO BOARDS OF REGISTRATION.] Clerks of primary elections shall keep a list of the names of all persons voting at said election, and shall return one list as now required and one tally sheet that shall be a part of the record, and deliver the other list to the board of registration within thirty days following any primary election. No registration of voters shall be required under this act to vote at any primary election. The poll list so kept at a primary election and delivered to the boards of registration shall take the place of the first registration of the voters

now required, and notice only shall be given of the date of the second day of registration, which shall be held and conducted as now provided, and no other shall be required to vote at the general election following.

§ 22. COUNTY CANVASSING BOARD.] The county canvassing board shall be composed of the clerk of the district court, county auditor, chairman of the board of county commissioners and the chairman of the county committees of the two political parties that cast the highest votes for governor at the preceding general election. The members of said board shall meet in the county auditor's office in the court house at 10 o'clock on the eighth day after any primary election, and shall proceed, after taking the usual oath of office, to open and publicly canvass the primary election returns made to the county auditor. Any three members of said board shall constitute a quorum and are authorized to make the canvass therein provided and to certify to the results thereof.

§ 23. STATEMENT OF CANVASSING BOARD. CONTESTS.] The canvassing board shall make and prepare a statement, the same to be signed by said board and filed in the office of the county auditor, as follows:

First. A statement containing the names of all candidates voted for at the primary election, with the number of votes received by each and for what office, said statement to be made as to each political party or principle separately.

Second. A statement of the names of the persons or candidates of each political party who are nominated, to-wit: those persons or candidates of such political party or principle who received the highest number of votes for the respective office, and where there is more than one person to be elected to a given office at the ensuing general election there shall be included in said statement of nomination the names of so many candidates of such party receiving the next highest number of votes for that office as there are persons to be elected to such office at said ensuing general election. Said statement shall in like manner be made separately as to each political party.

Third. A statement of the whole number of electors registered and the number of ballots cast, men and women separately, at such primary election.

Fourth. A separate statement shall be made of the votes cast for United States senator, member of congress, state officers, judges of the supreme and district courts and members of the legislative assembly, which shall be transmitted to the secretary of state as provided in this act.

Fifth. It shall be the duty of the county auditor upon the completion of the canvass to mail or deliver in person to each candidate so nominated for any county or district office a notice of such fact and that his name will be put upon the official ballot, except as other-

wise provided. He shall also cause a copy of the findings of said board to be published in the official newspaper of the county.

§ 24. ABSTRACT OF VOTES TRANSMITTED TO SECRETARY OF STATE.] It shall be the duty of the county auditor of each county, under his official seal, excepting as provided in section 25 of this act, to return to the secretary of state on or before the first Tuesday of August following any primary election, a certified abstract under separate political designation or principle, of the number of votes cast in his county for every candidate for nomination for United States senator, member of congress, state officers, judges of the supreme and district courts and members of the legislative assembly. He shall seal up such abstracts and without delay transmit them to the secretary of state by registered mail.

§ 25. TWO OR MORE COUNTIES IN DISTRICT.] When two or more counties are embraced in one legislative district the respective county auditors shall attend at the office of the county auditor of the senior county of such district, within fifteen days after a primary election, and in conjunction with the auditor of the senior county shall compare the votes cast in the several counties comprising such district and such auditors shall immediately make out certificates of nomination for the persons of each political party or principle having the highest number of votes in such district for members of the legislative assembly, as provided in section 24 of this act, which certificates of nomination shall be forwarded without delay to the secretary of state by registered mail by the county auditor of the senior county, who shall give notice in writing to all the members of the legislative assembly nominated in such district.

§ 26. STATE BOARD OF CANVASSERS.] For the purpose of canvassing and ascertaining the result of any primary election the state board of canvassers shall meet at the office of the secretary of state on the first Tuesday in September next following a primary election, and be composed of the following members, viz.: Clerk of the supreme court, secretary of state, superintendent of public instruction and the chairman of the state central committee of the two political parties that cast the highest votes for governor at the last general election. After taking the usual oath of office the said board shall proceed to open and publicly canvass the primary election returns made by the several county auditors. Three members of said board shall constitute a quorum and are authorized to make the canvass herein provided and to certify to the result thereof.

§ 27. STATEMENT BY STATE BOARD.] The state board of canvassers shall make and prepare a statement, the same to be signed by said board and filed in the office of the secretary of state as provided in subdivisions 1, 2 and 3 of section 23 of this act. It shall be the duty of the secretary of state upon the completion of the canvass to mail to each candidate so nominated a notice of such fact, and that his name will be put upon the official ballot to be voted for at the ensuing general election, except as otherwise provided.

He shall cause a copy of findings of the said board to be filed in his office and published in a newspaper printed at the seat of government.

§ 28. OFFICIAL BALLOT, NAMES PLACED THEREON.] The secretary of state shall place the names of all the candidates of each political party or principle, who are shown to have been nominated for the respective offices in accordance with the certificates of nomination received from the several county auditors of this state on the official ballot to be voted for at the general election following.

§ 29. VACANCIES, HOW FILLED.] When there is but one aspirant and a vacancy occurs by death or resignation of such aspirant for nomination before the primary election and ballots are printed in legislative districts containing more than one county, the chairman of the party in which such vacancy occurs, of each county committee of the counties of which such district is composed and the member of the state central committee from that legislative district shall meet and by the majority vote of such shall fill such vacancy and by a certificate of nomination notify the county auditors of the several counties of which such district is composed, and the auditors of such counties shall place the name on the primary election ballots where the vacancy exists. Should a vacancy occur in a legislative office in a county composed of more than one district, or in a commissioner's district, then the county central committee of the party in which such vacancy occurs shall meet and fill such vacancy. On receipt of a certificate of nomination from said committee, the county auditor shall place the name of such nominee upon the primary election ballot where such vacancy exists.

§ 30. ERRORS, HOW CORRECTED.] Whenever it shall be made to appear by affidavit to the supreme court or to the district court of the proper county, that an error or omission has occurred or is about to occur in the placing of any name on an official primary election ballot; that any error has been or is about to be committed in printing such ballot, or that any wrongful act has been or is about to be done by any judge or clerk of a primary election, county auditor, canvassing board, member thereof, or other person charged with any duty concerning the primary election; or that any neglect of duty has occurred or is about to occur, such judge shall order the officer or person charged with such error, wrong or neglect to forthwith correct the error, desist from the wrongful act, or perform the duty, or show cause at a time and place to be fixed by the court why he should not do so. Failure to obey the order of such judge shall be contempt of court.

§ 31. NOMINATIONS, HOW CONTESTED. APPEAL.] Any candidate at a primary election desiring to contest the nomination of another candidate or candidates for the same office, may proceed by affidavit within ten days after the completion of the canvass. In case the contestant shall set forth in his affidavit, upon information and belief, that the ballots in any precinct have not been correctly

counted, and that he has been prejudiced thereby, the judge shall make an order requiring the custodian of such ballots to appear before him at such time and place, and abide the further order of the court. At the time and place stated, the ballot boxes shall be opened and the ballots recounted in the presence of the court. If it should be found that a mistake has been made in counting such ballots, then the contestant shall be permitted upon application, to amend his affidavit of contest by including such additional facts therein.

All testimony and depositions taken in contests brought under the provisions of this article shall be taken in the same manner as in civil actions and depositions may be taken in more than one place at the same time on leave of the court, and all matters relating to such contests shall be heard and tried as nearly as may be as civil actions are tried, except as otherwise provided herein. The court shall make its findings of fact and conclusions of law. Appeals from final judgment and decisions of such contests may be taken without making a motion for a new trial in the district court in the manner provided for in the code of civil procedure, except that the undertaking on appeal shall be in a sum to be fixed by the judge, not less than five hundred dollars, and shall be approved by the judge and by the clerk of the district court of the proper county or subdivision under the directions of the judge.

Appeals to the supreme court under the provisions of this article must be taken within ten days after notice of entry of final judgment and the party appealing must immediately procure the transmission of the record on such appeal to the clerk of the supreme court and such appeal may be brought on for hearing before the supreme court at any time such court shall be in session, upon five days notice from either party; and the same shall be heard and determined in a summary manner, except as otherwise provided in this article. The provisions of the code of civil procedure are applicable to and constitute the rules of practice in the proceedings mentioned in this article and the provisions of the civil code of procedure relative to appeals in civil actions, except in so far as they are inconsistent herewith apply to the proceedings mentioned in this article.

§ 32. PRESENT ELECTION STATUTES APPLY.] The provisions of the statutes now in force in relation to the holding of elections, the solicitation of votes, the manner of conducting elections, of counting the ballots and making return thereof, and all other kindred subjects shall apply to all primaries in so far as they are consistent with this act; the intent of this act being to place the primary election under the regulation and protection of the laws now in force as to election.

§ 33. TIE VOTE, DETERMINED HOW.] In case of a tie vote the same shall be determined by the canvassing board or boards concerned, at a time and place fixed by them in such manner as they

may designate in the presence of the candidate upon at least five days notice to such candidate.

§ 34. NOT REPEALED.] Nothing herein contained shall be construed as repealing or being in conflict with section 501 of the revised codes of 1905.

§ 35. FEES PAID COUNTY.] All fees paid to the secretary of state by candidates for the legislative assembly shall be paid by the secretary of state forthwith to the various county auditors in the state where such candidates reside and in case any legislative district is composed of more than one county such fee shall be paid to such counties in equal proportions, which fees are to be turned into the general fund of said county by the auditor.

§ 36. ACT VALID.] In case any of the provisions of this act should be declared unconstitutional that shall not affect the validity of any of the other provisions of this act.

§ 37. PENAL CODE APPLICABLE.] All of the provisions of chapter 5 of the penal code in so far as the same relates to crimes against the elective franchise, are hereby made applicable to elections held pursuant to the provisions of this act.

§ 38. PRESENT COMMITTEES CONTINUE.] Every state, county, district and city committee of each political party now eligible under the provisions of this act shall remain the regularly constituted committee of the respective parties until succeeded as provided for in this act.

§ 39. PRECINCT COMMITTEE, HOW ELECTED.] At the primary each voter may write in the space left on his ticket for that purpose the names of not to exceed three qualified electors of the precinct for members of his party precinct committee. The three having the highest number of votes shall constitute such committee, and the one having the largest shall be chairman. The official returns made by the election board from each precinct shall show the name and address of party committeemen chosen.

§ 40. COUNTY AND STATE COMMITTEE, HOW SELECTED.] The chairman of each precinct committee shall constitute the county committee of each county and they shall meet at the county seat between the first day of August and the tenth day of August following every primary election and organize by selecting a chairman, a secretary and a treasurer, and shall adopt rules and modes of procedure. They shall at the same time select one person who shall be a legal voter, to act upon and be a member of the state central committee of such party in all counties consisting of one legislative district, and in counties having more than one legislative district they shall select one person from each district; and when two or more counties are embraced in one legislative district the county committee of each county shall meet at the county seat of the senior county of such district on or before the fifteenth day of August following every primary election, and select one person who shall be a legal voter, to act upon and be a member of the state central com-

mittee of such party. The members so selected as state central committeemen shall meet at the state capitol between the first day and the tenth day of September and organize by selecting a chairman, a secretary and treasurer, and shall adopt rules and modes of procedure and promulgate and publish a platform or principle upon which its candidates shall stand. Each member of any committee shall retain such position until his successor is chosen. Every member so selected shall be a legal voter. Vacancies shall be filled by a majority of the committee by appointment from the district in which such vacancy exists.

§ 41. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed, in so far as they relate to the provisions of this act.

Approved March 19, 1907.

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## CHAPTER 110.

[S. B. No. 125—Pierce]

### OPENING AND CLOSING OF POLLS.

AN ACT to Amend Section 638 of the Revised Codes, Relating to the Conduct of Elections.

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

§ 1. AMENDMENT.] Section 638 of the revised codes of 1905 be and the same is hereby amended and re-enacted so as to read as follows:

§ 638. WHEN POLLS ARE TO BE OPENED AND CLOSED.] At all elections held under the provisions of this chapter the polls shall be open at eight o'clock a. m., and closed at five o'clock p. m. Twenty minutes prior to five o'clock p. m. the inspector shall proclaim to the electors outside the number of minutes before the polls will be closed and that such closing will be precisely at five o'clock p. m.; provided, however, that whenever it is made to appear to the satisfaction of the board of county commissioners that the conduct of any primary or general election may be facilitated or that the convenience of the people of any one or more precincts may be better subserved by the opening of the polls in said precinct or precincts at an earlier hour, not earlier than six a. m., or the keeping of the polls in such precinct or precincts open until a later hour, not later than eight p. m., the board shall, at the same meeting at which election precincts are designated and election officers named, by resolution designate the hours at which the polls in such precinct or precincts shall open and close, and that such resolution be published as a part of the notice of election.

Approved March 19, 1907.

# ELEVATORS AND WAREHOUSES

## CHAPTER 111.

[S. B. No. 326—Regan]

### REPORTS OF ELEVATORS AND WAREHOUSES.

AN ACT to Provide for Owners and Managers of Elevators and Warehouses to Make Annual Reports to the Commissioner of Agriculture and Labor.

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

§ 1. REPORT OF GRAIN SHIPMENTS.] The owner, agent or operator of every elevator, warehouse or grain station shall make an annual sworn statement and report to the commissioner of agriculture and labor on or before the twentieth day of August in each year. Such report shall show the amount and kind of grain bought and shipped during the preceding year ending July 30.

§ 2. REPORT OF TRACK OR INDEPENDENT BUYERS.] Every station agent of every railroad shall report to the commissioner of agriculture and labor annually as provided in the preceding section, the amount of grain shipped by independent or track buyers or by other individuals not the owners or operators of any warehouse or elevator at his station.

§ 3. COMMISSIONER OF AGRICULTURE FURNISHES BLANKS.] It shall be the duty of the commissioner of agriculture and labor to furnish all persons required to make the reports provided for in this act with the necessary and appropriate blanks on which to make and return such report.

Approved March 19, 1907.

## CHAPTER 112.

[S. B. No. 167—Sharpe]

### ELEVATOR LICENSES.

AN ACT to Amend Section 2245 of the Revised Codes of 1905, of the State of North Dakota, Relating to Licensing of Public Warehouses.

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

§ 1. AMENDMENT.] Section 2245 be and the same is hereby amended to read as follows:

§ 2245. LICENSE, HOW OBTAINED. FEE, HOW DETERMINED.] A biennial state license must be maintained through the commissioners of railroads to expire on the first day of August of each odd numbered year and for each and every public grain warehouse in operation in this state. No license issued under this article shall describe more than one public grain warehouse, or grant permission to operate any other public grain warehouse, than the one therein described. The license fee is hereby fixed at eight dollars for warehouses of a capacity of twelve thousand bushels or less, and ten dollars for warehouses of a capacity of over twelve thousand bushels and not to exceed twenty-five thousand bushels, and twelve dollars for all warehouses over twenty-five thousand bushels and not to exceed fifty thousand bushels, and twenty dollars for all warehouses over fifty thousand bushels and not to exceed eighty thousand bushels, and twenty-five dollars for all warehouses over eighty thousand bushels capacity for each public grain warehouse; provided, that before any license is issued the person applying therefor shall file with the commissioners of railroads the receipt of the state treasurer showing that the applicant has paid into the state treasury the amount of said license fee.

Approved March 19, 1907.

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## CHAPTER 113.

[H. B. No. 90—Rose]

### CERTIFICATE OF INSPECTION AND WEIGHT.

AN ACT Requiring Elevator Companies Transacting Business in this State to Return Certificate of Inspection and Weighmaster's Certificate of Weight to the Local Buyer.

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

§ 1. REQUIRING THE RETURN OF CERTIFICATE OF WEIGHT AND INSPECTION.] Every elevator company, corporation, co-partnership

or association of individuals, operating any elevator, building or place in this state for the purchase, storage or deposit of any grain or other farm commodity, shall return to the local buyer at the place where such grain or other farm commodity is purchased, stored or deposited, the official certificate of inspection, together with the weighmaster's certificate for any such grain or other farm commodity sold, whether said grain is sold in this state or in any foreign state where such grain is weighed and inspected.

§ 2. DUTY OF AGENT OR LOCAL BUYER.] It shall be the duty of the local buyer or agent of the elevator company or other association enumerated in section one of this act, to post in a conspicuous place in such elevator building or place, the official weighmaster's certificate and the official inspector's certificate, and have the same at all times so that the public may inspect the same.

§ 3. WHEN CERTIFICATES ARE TO BE RETURNED.] The elevator company or other association enumerated in section one of this act, shall forthwith upon the sale of each car or part of car of grain or other farm commodity, return the certificates provided for in this act.

§ 4. PENALTY.] Any elevator company, corporation, co-partnership, or other association of individuals, or any person who shall violate any of the provisions of this act, shall be guilty of a misdemeanor and all right to transact any business in this state shall be forfeited.

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

§ 6. EMERGENCY.] Whereas, an emergency exists in that there is no valid law regulating the matters set forth in this act, this act shall take effect and be in force from and after its passage and approval.

Approved March 12, 1907.

# ESTATES OF DECEDENTS

## CHAPTER 114.

[S. B. No. 169—Rice]

### SETTLEMENT OF ESTATES.

AN ACT to Amend Section 8149 of the 1905 Revised Codes of the State of North Dakota.

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

§ 1. AMENDMENT.] Section 8149 of the 1905 revised codes of North Dakota is amended to read as follows:

§ 8149. SALE OF MORTGAGED LAND. MONEY, HOW APPLIED.] When any sale is made by an executor or administrator or guardian pursuant to the provisions of this chapter, of land subject to any mortgage or lien, which is a valid claim against the estate of the decedent, and has been presented and allowed, the purchase money must be applied, after paying the necessary expenses of the sale, first to the payment and satisfaction of the mortgage or lien, and the residue, if any, in due course of administration. The application of the purchase money to the satisfaction of the mortgage or lien must be made without delay, and the land is subject to such mortgage or lien until the purchase money has been actually so applied. No claim against any estate which has been presented and allowed is affected by the statute of limitations, pending the proceedings of the settlement of the estate. The purchase money, or so much thereof as may be sufficient to pay such mortgage or lien, with interest and any lawful costs and charges thereon, may be paid into the county court, to be received by the judge thereof, whereupon the mortgage or lien upon the land must cease, and the purchase money must be paid over by the judge without delay, in payment of the expenses of the sale and in satisfaction of the debt, to secure which the mortgage or other lien was taken, and the surplus, if any, at once returned to the executor, administrator or guardian, unless for good cause shown after notice to the executor or administrator, the judge otherwise directs; provided, nevertheless, that land upon which there is an existing and valid mortgage or other lien may be sold subject to such mortgage or lien without the payment of the amount of such mortgage or lien whenever in the discretion of the county court it shall appear to be to the best interest of the estate to sell such land subject to such existing mortgage or lien.

Approved March 20, 1907.

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## CHAPTER 115.

[H. B. No. 345—Wedge.]

### ADMINISTRATION OF ESTATES.

AN ACT Providing for Summary Administration When Estate Is of Small Value.

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

§ 1. DISPOSITION OF ESTATES OF SMALL VALUE.] If, upon the return of the inventory of the estate of an intestate, it shall appear therefrom that the value of the whole estate does not exceed the sum of one thousand five hundred dollars, and if there be a sur-

viving husband or wife or minor children of the deceased, the court or judge thereof shall by order require all persons interested to appear on a day fixed to show cause why the whole of said estate should not be assigned for the use and support of the family of the intestate. Notice thereof shall be given and proceedings had in the same manner as provided in section 8090 of the revised codes of 1905. If, upon the hearing, the court finds that the value of the estate does not exceed the sum of one thousand five hundred dollars, it shall by a decree for that purpose, assign to the surviving husband or wife of the intestate, if there be a surviving husband or wife, if no surviving husband or wife, then to the minor children of the deceased, if there be minor children, the whole of the estate, subject to whatever mortgages, liens or incumbrances there may be upon said estate at the time of the death of the intestate, after the payment of the expenses of the last illness of the intestate, funeral expenses and expenses of administration, and the title thereof shall vest absolutely in such surviving husband or wife or minor children, subject to whatever mortgages, liens or incumbrances there may be upon said estate at the time of the death of the intestate and there must be no further proceedings in the administration unless further estate be discovered; and when it so appears that the value of the whole estate does not exceed the sum of three thousand dollars, it is in the discretion of the court to dispense with the regular proceedings or any part thereof, prescribed in chapter 6 of the probate code, and there may be had a summary administration of the estate and an order of distribution thereof at the end of six months after issuing the letters. The notice to creditors must be given to present their claims within four months after the first publication of such notice and those not so presented are barred as in other cases.

Approved March 14, 1907.

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## CHAPTER 116.

[H. B. No. 201—Stevens]

### LETTERS OF ADMINISTRATION.

AN ACT to Amend Section 8022 of the Revised Codes of 1905, Relating to Letters of Administration, and Who Entitled to Same.

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

§ 1. AMENDMENT.] Section 8022 of the revised codes of 1905 of the state of North Dakota is amended so as to read as follows:

§ 8022. LETTERS OF ADMINISTRATION, WHO ENTITLED TO.] Administration of the estate of a person dying intestate must be granted to some one or more of the persons hereinafter mentioned, and they are respectively entitled thereto in the following order:

1. The surviving husband or wife, or some competent person whom he or she may request to have appointed.
2. The children.
3. The father or mother.
4. The brothers.
5. The sisters.
6. The grandchildren.
7. The next of kin entitled to share in the distribution of the estate.
8. The creditors.
9. Any person legally competent.
10. The public administrator of the county wherein there is property of the decedent which remains unadministered, as general or special administrator thereof.

If the decedent was a member of a partnership at the time of his decease, the surviving partner must in no case be appointed administrator of his estate. If any person entitled to administration is a minor letters must be granted to his or her guardian, or any other person entitled to letters of administration, in the discretion of the court. No person is competent to serve as administrator or administratrix, who, when appointed, is:

1. Under the age of majority.
2. Convicted of an infamous crime.
3. Adjudged by the court incompetent to execute the duties of the trust by reason of drunkenness, improvidence, or want of understanding or integrity.

A married woman must not be appointed administratrix. When an unmarried woman, appointed administratrix, marries, her authority is extinguished.

Approved March 14, 1907.

# ESTRAYS

## CHAPTER 117.

[H. B. No. 230—Thoreson]

### ESTRAYS.

AN ACT to Amend Section 1973 of the Revised Codes of 1905, Relating to Estrays.

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

§ 1. AMENDMENT.] Section 1973 of the revised codes of 1905 is amended to read as follows:

§ 1973. NOTICE OF TAKING UP ESTRAYS.] Each person taking up an estray horse, mare, colt, ass, mule, or neat cattle, sheep, hog or goat, shall within ten days thereafter give notice of the finding and taking up of the said animal in a weekly newspaper, if there is such a newspaper published in the county; if not, in the nearest newspaper, which advertisement shall give a description of such estray and the marks and brands thereon. Any person taking up such estray shall also file, within ten days, with the county auditor of the county wherein such estray is taken up, a description of such estray and the marks and brands thereon. Such person shall also, within ten days from the time of taking up such estray, mail to the commissioner of agriculture and labor, at his office in Bismarck, by registered mail, a true copy of the notice hereinbefore required to be given to the county auditor of the respective counties. The receipt for the registered letter and proof of publication of the notice as herein provided must be filed with the county auditor of the county where such estray was taken up before said estray can be appraised or before appraisers can be appointed. Any person taking up such an estray who fails to advertise such estray or who fails to file a description thereof with the county auditor or fails to mail a copy of said notice to the commissioner of agriculture and labor as herein provided, shall be guilty of a misdemeanor and shall be liable to the owners of such estray for all damages caused by neglecting to advertise as herein provided; provided, if any person shall take up an estray which is apparently worthless, such estray may be at once appraised, and if found worthless, may be destroyed. The person taking up such estray shall notify some justice of the peace of the county, and such justice shall immediately choose one

disinterested freeholder as one appraiser, the party taking up the estray shall choose one disinterested freeholder, and the two so chosen shall appoint a third person living in the vicinity where the estray was taken up, and the three persons shall constitute a board of appraisers who shall act without compensation. If such appraisers shall appraise the estray as worthless, it shall be destroyed by the party taking it up.

Approved March 13, 1907.

# EVIDENCE

## CHAPTER 118.

[S. B. No. 251—Purcell]

### BUSINESS RECORDS EVIDENCE.

AN ACT Making Entries in a Book or Other Permanent Form Evidence in Certain Cases.

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

§ 1. BUSINESS RECORD RECEIVED AS EVIDENCE.] Any entries in a book or other permanent form, in the usual course of business, contemporaneous with the transactions to which they relate and as a part of or connected with such transactions, made by persons authorized to make the same, may be received in evidence when shown to have been so made upon the testimony either of the person who made the same, or if he be beyond the reach of a subpena of the trial court or insane, of any person having custody of the entries and testifying that the same were made by a person or persons authorized to make them in whose handwriting they are, and that they are true and correct to the best of his knowledge and belief. In case such entries are, in the usual course of business, also made in other books and papers as a part of the system of keeping a record of such transactions, it shall not be necessary to produce as witnesses all of the persons subject to subpena who were engaged in the making of such entries; but before such entries are admitted the court shall be satisfied that they are genuine and in other respects within the provisions of this section.

Approved March 19, 1907.

# CHAPTER 119.

[H. B. No. 343—Rose]

## WITNESSES AND EVIDENCE.

AN ACT to Amend Section 7253 of the Revised Codes of 1905, Relating to Witnesses and Evidence.

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

§ 1. AMENDMENT.] Section 7253 of the revised codes of 1905 is amended to read as follows:

§ 7253. WHO NOT EXCLUDED. HUSBAND AND WIFE. DECEDENT'S TESTIMONY.] No person offered as a witness in any action or proceeding in any court, or before any officer or person having authority to examine witnesses or hear evidence, shall be excluded or excused by reason of such person's interest in the event of the action or proceeding; or because such person is a party thereto, or because such person is the husband or wife of a party thereto, or of any person in whose behalf such action or proceeding is commenced, prosecuted, opposed or defended, except as hereinafter provided.

1. A husband cannot be examined for or against his wife without her consent, nor a wife, for or against her husband without his consent, nor can either, during the marriage or afterwards, be, without the consent of the other, examined as to any communication made by one to the other during the marriage; but this subdivision does not apply to a civil action or proceeding by one against the other, nor to a criminal action or proceeding for a crime committed by one against the other.

2. In civil action or proceeding by or against executors, administrators, heirs-at-law or next of kin in which judgment may be rendered or order entered for or against them, neither party shall be allowed to testify against the other as to any transaction whatever with or statement by the testator or intestate, unless called to testify thereto by the opposite party; and where a corporation is a party in proceedings mentioned in this section, no agent, stockholder, officer or manager of such corporation shall be permitted to testify to any transaction had with the testator or intestate. But if the testimony of a party to the action or proceeding has been taken and he shall afterwards die and after his death the testimony so taken shall be used upon any trial or hearing in behalf of his executors, administrators, heirs-at-law or next of kin, then the other party shall be a competent witness as to any and all matters to which the testimony so taken relates.

Approved March 14, 1907.

# EXPERIMENT STATIONS

## CHAPTER 120.

[S. B. No. 111—McLean]

### AGRICULTURAL SUB-EXPERIMENT STATION.

AN ACT Creating and Establishing an Agricultural Experiment Station at or Near Hannah or Langdon in Cavalier County, Providing for its Management and Making an Appropriation Therefor.

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

§ 1. ESTABLISHMENT OF EXPERIMENT STATION. MANAGEMENT.] There is hereby created and established an agricultural and grass experiment station, to be located at or near Hannah or Langdon, in Cavalier county, in connection with the North Dakota agricultural college at Fargo, and under the direction of the board of directors of said college, and one additional member to be appointed by the governor, by and with the advice and consent of the senate, whose term of office shall be for four years from and after the date of his appointment and until his successor shall be appointed and qualified, and who shall receive for his services the sum of three dollars per day for each day employed under the direction of said board, or in attending its meetings, and ten cents for each mile actually and necessarily traveled in connection therewith.

§ 2. EXPERIMENTS TO BE MADE.] It shall be the duty of said board as constituted herein at said station to make experiments with native and other grasses and forage products as well as other agricultural products of the soil, with a view of improving and enlarging the supply of forage of said district and extending and increasing the agricultural products thereof; provided, that such experiments shall not be undertaken nor said station established unless a suitable area of land not less than one hundred sixty acres within two miles of the village of Hannah or the city of Langdon shall be donated free of charge, by warranty deed to the state of North Dakota.

§ 3. APPROPRIATION.] There is hereby appropriated out of the funds of the state treasury not otherwise appropriated the sum of ten thousand dollars for the purpose of establishing said station and conducting said experiments, as provided in this act and for no other purpose.

§ 4. EMERGENCY.] An emergency exists in this, that there is no provision of law for said experimental station, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 19, 1907.

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## CHAPTER 121.

[H. B. No. 81—Ueland]

### REPORT OF SUB-EXPERIMENT STATIONS.

AN ACT Requiring Biennial Reports To Be Made by the Superintendents of the Sub-Experiment Stations.

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

§ 1. REPORT BIENNIALLY.] The superintendents of all sub-experiment stations shall make a biennial report to the president of the agricultural college before the last Monday of October next preceding each biennial session of the legislative assembly. Such report shall show the financial condition of the sub-stations, how all moneys have been expended, and the results of the experiments carried on. This report shall be kept separate and included by the board of trustees of the agricultural college with their biennial report to the governor.

Approved March 12, 1907.

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## CHAPTER 122.

[H. B. No. 240—Chapman]

### WILLISTON EXPERIMENT STATION.

AN ACT Creating and Establishing an Irrigation and Dry Farming Experiment Station At or Near Williston, in Williams County, Providing for Its Management and Making an Appropriation Therefor.

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

§ 1. EXPERIMENT STATION CREATED AND ESTABLISHED AT WILLISTON. MEMBERS OF BOARD.] There is hereby created and established an irrigation and dry farming experiment station, to be located at or near Williston, in Williams county, in connection with the North Dakota agricultural college at Fargo, and under the direction of a board composed of the board of directors of said

college, and one additional member to be appointed by the governor, by and with the consent of the senate, whose term of office shall be for four years from and after the date of his appointment and until his successor shall have been appointed and shall qualify, and who shall receive for his services the sum of three dollars per day for each day employed under the direction of said board, or in attending its meetings, and five cents for each mile actually and necessarily traveled in connection therewith; provided, however, that said member's authority on said board shall be limited to the consideration of matters affecting the experiment station provided for in this act.

§ 2. DUTY OF BOARD TO MAKE EXPERIMENTS WITH GRASSES, FORAGE AND OTHER AGRICULTURAL PRODUCTS. STATION NOT TO BE ESTABLISHED OR EXPERIMENTS UNDERTAKEN UNLESS SUITABLE LAND IS DONATED.] It shall be the duty of said board, as constituted herein, to make experiments at said station, through both irrigation and dry farming methods, with native and other forage plants, fruit trees, grains and grasses and other agricultural products with a view of improving and enlarging the supply of forage plants, fruit trees, grains, grasses and other agricultural products of said district; provided, that such station shall not be established nor such experiments undertaken unless a suitable tract of land containing not less than one hundred and sixty acres within two miles of the city of Williston shall be donated free of charge, by warranty deed to the state of North Dakota.

§ 3. APPROPRIATION.] There is hereby appropriated out of the funds of the state treasury not otherwise appropriated the sum of four thousand dollars for the purpose of establishing said station, and three thousand dollars per annum hereafter for conducting said experiments, as provided in this act and for no other purpose.

§ 4. EMERGENCY.] An emergency exists, in that the necessary arrangements for the location of said experiment station should be made before the completion of the irrigation ditches now being constructed by the United States government in said district, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 13, 1907.

## CHAPTER 123.

[H. B. No. 131—Dibley]

### CONDUCTING DEMONSTRATION FARMS AND EXPERIMENTS AT AGRICULTURAL COLLEGE.

AN ACT Appropriating an Annual Sum of Money for the Use of the Government Experimental Station at Fargo for Conducting Demonstration Farms and for Co-operating with Farmers, for Making Experiments in the Manufacture of Denaturized Alcohol, for Publishing Reports and Bulletins, for Analysis of Fertilizers and Stock Foods, for Complying with the Provisions of the Pure Paint, Paris Green and Formaldehyde Laws, and for Making Other Experiments.

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

§ 1. APPROPRIATION. EXPERIMENTS. REPORTS. DUTY OF EXPERIMENTAL STATION.] There is hereby annually appropriated out of any moneys in the state treasury not otherwise appropriated the sum of seven thousand five hundred dollars to be paid quarterly to the treasurer of the North Dakota agricultural college in April, July, October and January of each year, upon the order of the state auditor, who is hereby directed to draw order for the same, for the use of the government experimental station at Fargo for the purpose of conducting one demonstration farm in each of not less than twelve counties of the state, for co-operating with farmers in the production and dissemination of improved grains and grasses, and for the development of methods for maintaining fertility of the soil, for making experiments with cereals, root crops, and by-products of the farm for the manufacture of denaturized alcohol, for publishing the annual report of the experimental station, and for additional popular, press and scientific bulletins, for complying with the provisions of the pure paint law, the paris green law, and the formaldehyde law now on the statute book, and for making analysis of fertilizers and stock foods, and for other experimental purposes.

§ 2. EMERGENCY.] Many of the provisions of this bill require an expenditure of money before July 1, 1907, hence an emergency exists and this bill shall be in force from and after its passage and approval.

Approved March 5, 1907.

# EXPLOSIVES

## CHAPTER 124.

[S. B. No. 81—Cashel]

### FELONY TO USE HIGH EXPLOSIVES.

AN ACT Making It a Felony for any Person Who with Intent to Commit any Crime Breaks into or Enters a Building, and Commits or Attempts to Commit a Crime by the Use of Nitro-glycerine, Dynamite, Gunpowder or any Other High Explosive, and Providing a Penalty Therefor.

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

§ 1. WHEN GUILTY. PUNISHMENT.] Any person who with intent to commit any crime, breaks into or enters a building and commits or attempts to commit a crime by the use of nitro-glycerine, dynamite, gunpowder or any other high explosive, is guilty of a felony. Any violation of this act is punishable by imprisonment in the penitentiary of this state for not less than twenty years, and not more than forty years.

Approved February 16, 1907.

# FAIRS

## CHAPTER 125.

[S. B. No. 274—Leutz]

### DUTY OF OFFICERS OF FAIR ASSOCIATIONS.

AN ACT Requiring the Secretary or Other Executive Officer of Every County, District or State Fair Association or Other Exhibit at Which the Resources or Products of the State are Placed on Exhibition, to File with the Commissioner of Agriculture and Labor a List of the Dates Claimed by Said Association for the Purpose of Conducting the Same.

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

§ 1. FILE DATES CLAIMED.] It is hereby made the duty of the secretary, or other executive officer of every county, district or

state fair association, or other exhibit at which the resources or products of the state are placed on exhibition, to file with the commissioner of agriculture and labor, on or before May first of each year, by said organization, or any of them, the dates claimed by said organization on which they intend giving their exhibitions, together with the name of the place where the same is to be held, and the name of the president and secretary of such association.

§ 2. PENALTY.] Failure to comply with the provisions of this act shall render the officer required to make said report liable to a fine of not more than fifty dollars to be collected as other fines are collected.

§ 3. EMERGENCY.] Whereas, there is now no law requiring the making of such report, an emergency is declared to exist, and this act shall take effect and be in force from and after its passage and approval.

Approved March 8, 1907.

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## CHAPTER 126.

[H. B. No. 262—Dibley]

### AGRICULTURAL FAIR CORPORATIONS.

AN ACT to Amend Sections 4608 and 4609 of Chapter 18 of the Revised Codes of North Dakota, 1905, Relating to, Debts Limited, and Income and Expenses, Respectively, of Agricultural Fair Corporations.

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

§ 1. AMENDMENT.] Section 4608, chapter 18, of the revised codes of North Dakota, 1905, is amended and re-enacted so as to read as follows:

§ 4608. DEBTS LIMITED.] Such corporation must not contract any debt or liabilities in excess of the amount of money in the treasury at the time of contract or not exceeding two thousand five hundred dollars, reasonably expected to be paid into the treasury from the receipts from a fair or exposition immediately to be held thereafter, except for the purchase of real property or the making of permanent improvements on the real property owned by such corporation, for which it may create a debt not exceeding ten thousand dollars, secured by mortgage on the real property of the corporation. The directors who vote therefor are personally liable for any debt contracted or incurred in violation of this section.

§ 2. AMENDMENT.] Section 4609, chapter 18, revised codes of North Dakota 1905, is amended and re-enacted so as to read as follows:

§ 4609. INCOME AND EXPENSES.] Agricultural fair corporations are not conducted for profit and have no capital stock or income other than that derived from charges to exhibitors and fees for concessions, which charges together with the term of membership and the mode of acquiring the same must be provided in their by-laws. Such charges and fees must never be greater than to raise sufficient money to discharge the debt for the real estate and the improvements thereon and to defray the current expenses of fairs and the creation of a sinking fund not exceeding five thousand dollars and for carrying on the business of such corporation; provided, that agricultural fair corporations may also be organized by three or more persons as in the case of other corporations, with all the rights, privileges and liabilities appertaining to such corporation under the corporation laws of this state, including such rights and privileges as are specified in this and the two preceding sections.

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

Approved March 14, 1907.

# FORECLOSURE SALES

## CHAPTER 127.

[S. B. No. 187—Pierce]

### PROTECTION OF PURCHASERS AT FORECLOSURE SALES.

AN ACT to Provide for the Protection of Purchasers at Judicial or Foreclosure Sales of Real Estate in the Payment of Taxes, Assessments, Prior Liens or Insurance Premiums Becoming Delinquent During the Year of Redemption.

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

§ 1. PROTECTION OF MORTGAGEES IN FORECLOSURE SALES DURING PERIOD OF REDEMPTION.] In all cases where a mortgage has been heretofore, or shall be hereafter, foreclosed on real estate, or execution or judicial sales made thereof, the purchaser, at such sales, or his successors in interest, may, during the year of redemption, in case of the expiration, during such year, of any insurance policy on the premises sold, pay the premium necessary to procure a renewal of such policy; and, in case of any taxes or assessments being delinquent, or in case any installment of interest or principal upon any prior or superior mortgage shall become due during such year of redemption, the purchaser may pay the same, and, in all such

cases, the amount so paid, with interest thereon, shall be and constitute a part of the sum necessary to be paid for the redemption from such sale. Such payments may be proved by a written notice thereof verified by the affidavit of the purchaser, his agent or attorney, stating the items and describing the premises, which may be recorded in the office of the register of deeds, and a copy thereof served upon the sheriff of the county, and from the date of such service the sheriff, before issuing any redemption certificate, must collect the full amount specified in such notice in addition to the amount which would otherwise be due in redemption from such sale, and pay the same over to the purchaser at such sale, or his assignee.

§ 2. PROTECTION OF MORTGAGORS.] In case any mortgagor, redemptioner, or judgment debtor, shall object to the payment of any such insurance premium, taxes or prior liens on account of the incorrectness or invalidity thereof, he may file with the sheriff an indemnity bond, in an amount and with sureties, to be approved by the judge of the district court, and thereupon the sheriff must permit redemption to be made without the payment of such insurance premiums, taxes or prior liens so excepted to, and the purchaser may determine the correctness or validity thereof and collect the same, by an action directly upon such bond, which action must be brought within one year next following such redemption.

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

Approved March 19, 1907.

# GAMING.

## CHAPTER 128.

[S. B. No. 295—Crane]

### MINORS IN POOL ROOMS.

AN ACT to Amend Section 8983 of the Revised Codes of 1905.

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

§ 1. AMENDMENT.] Section 8983 of the revised codes of 1905 is amended and re-enacted to read as follows:

§ 8983. MINORS NOT ALLOWED IN CERTAIN PUBLIC PLACES. PENALTY.] It shall be unlawful for any owner or keeper of any pool or billiard hall, or any bowling alley or any temperance saloon, or any place under any name whatever where the games of pool, billiards, bowling or cards are played, to allow any person under the age of eighteen years or any person attending a local high school to either play any of the games mentioned or to be

employed in said places or be allowed to visit said places, unless by written consent of one or both parents or guardians, or when accompanied by parent or guardian. Any person found guilty of violating this section shall be punished by a fine of not less than five dollars or more than fifty dollars, or imprisonment in the county jail not to exceed thirty days, or both such fine and imprisonment.

Approved March 19, 1907.

# GRAIN COMMISSION

## CHAPTER 129.

[S. B. No. 195—Hanna]

### BOARD OF GRAIN COMMISSIONERS.

AN ACT Providing for the Naming by the Governor of the State of a Board of Grain Commission, Prescribing Their Duties and Providing an Appropriation Therefor.

WHEREAS, The people of the state of North Dakota generally recognize the fact that the inspection of grain in the terminal cities in Minnesota and Wisconsin has not been satisfactory to them, and that there has been more or less conflict as to the grades of the grain and the dockage on same; and

WHEREAS, From the investigation made by the committee from the North Dakota state bankers association during the past summer, it was shown that there were abuses and that conditions existed which ought not to exist, and which should be remedied; now, therefore, the following law is proposed for enactment by the legislature:

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

§ 1. BOARD APPOINTED. DUTIES. APPROPRIATION.] There shall be appointed by the governor of this state, within sixty days after the passage and approval of this act, a non-partisan board, consisting of three members, who shall be citizens and freeholders of the state and not directly or indirectly interested in any elevator company, to be known as the "grain commission board." The duties of this board shall be to go to the cities of Duluth, Minneapolis and Superior and to carefully investigate the feasibility and practicability of the state of North Dakota buying or leasing or building an elevator to be used as a terminal elevator for the use and benefit of the people of the state of North Dakota, and making a report thereof. The said board in their investigation shall make full inquiry into the present grain inspection, the methods of handling of grain, the dockage of grain and the expense of

cleaning grain and the disposition of the screenings and their approximate value. They are to report as to the probable cost of buying, leasing or building of a terminal elevator of a certain capacity and the probable expense of operating the same, including taxes and insurance. Also to report any further matters that may come to their knowledge during their investigation and that would be of help in throwing further light and information on the subject. The board shall make a detailed report of their findings to the governor of the state which shall be submitted by him to the next session of the legislature for such action as they shall deem proper. Each member of the board shall receive for the time actually spent by him in the performance of his duties the sum of seven dollars per day and his actual and necessary traveling and other expenses, but in no event shall each member of the commission spend more than sixty days in the performance of their duties. Not more than fifty days shall be spent in this work in the year A. D. 1907, and not more than ten days in the year A. D. 1908, to supplement their findings of 1907, and to bring down their report as to conditions as near to the time of the meeting of the next state legislature as possible. The board is hereby authorized to employ and pay for a stenographer to assist in preparing their report. For the purpose of carrying out the provisions of this act there is hereby appropriated out of the state treasury of moneys not otherwise appropriated the sum of two thousand dollars, or so much thereof as may be necessary, to pay the per diem and expenses of the commission and their stenographer.

§ 2. EMERGENCY.] Whereas, an emergency is said to exist in that this board should be appointed prior to July 1st next, therefore this act shall be in force from and after its passage and approval.

Approved March 4, 1907.

# HISTORICAL SOCIETY

## CHAPTER 130.

[S. B. No. 47—Little]

### PUBLICATION OF REPORTS OF STATE HISTORICAL SOCIETY.

AN ACT to Amend Section 241, Chapter 4 of the Revised Codes of 1905, Relating to the Duties of the State Historical Society of North Dakota, and to the Publication of the Same.

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

§ 1. AMENDMENT.] Chapter 4, section 241, clause 6 of the revised codes of 1905, is amended to read as follows:

6. To prepare biennially for publication a report of its collections and such other matters relating to the transactions of the society as may be useful to the public, there shall be printed by the state one thousand five hundred copies of the biennial volume of collections of the state historical society of North Dakota, five hundred copies of which shall be bound in cloth and the remainder authorized by law shall be bound in pamphlet form. In addition to this the state shall print such separats of various portions of the volume, not to exceed fifty each, as may be desired by the society for special distribution. The state historical society shall have charge of the distribution and sale of the foregoing volumes and separates, and the board of directors shall account for such proceeds in the manner provided in section 242 of the same chapter.

§ 2. EMERGENCY.] An emergency exists, in that the society is about to publish its first report, and this act shall take effect from and after its passage.

Approved March 14, 1907.

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## CHAPTER 131.

[S. B. No. 94—Cashel]

### INDIAN VILLAGE SITES IN MERCER COUNTY RESERVED.

AN ACT for the Reservation of Lands for the Preservation of the Fort Clark and Mandan Village Sites on Certain School Lands in Mercer County, North Dakota.

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

§ 1. LANDS DESCRIBED.] The following described lands in Mercer county, known as school lands of the state of North Dakota, viz: the northwest quarter (NW¼) of section thirty-six (36) and all of section sixteen (16), township one hundred and forty-four (144) north, range eighty-four (84) west, be, and after the passage and approval of this act, are hereby withdrawn from sale or rent, until such time as the state historical society of North Dakota may make suitable provision for the preservation of the historic sites upon the aforesaid lands. Said historical society is hereby permitted to enter upon said lands and to remove therefrom any relics of an historical nature.

§ 2. EMERGENCY.] Whereas, an emergency exists in the fact that these lands may be sold, thus depriving the state from preserving the sites and procuring the relics contained therein.

Approved March 7, 1907.

## CHAPTER 132.

[S. B. No. 56—Little]

### APPROPRIATION.

AN ACT to Amend Section 242, Chapter 4 of the Revised Codes of 1905, Relating to Appropriations to the State Historical Society of North Dakota.

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

§ 1. AMENDMENT.] Section 242, chapter 4, of the revised codes of 1905, is amended so as to read as follows:

§ 242. APPROPRIATION.] For the purpose of aiding in the performance of said duties there is hereby annually appropriated to the said society the sum of two thousand dollars. The board of directors of said society shall keep a correct account of the manner of expenditure of the money hereby appropriated, and report annually to the governor a detailed statement of such expenses.

§ 2. EMERGENCY.] Whereas, there are not sufficient funds to provide for the care and equipment of the new museum, an emergency exists and this act shall take effect and be in force from and after its passage and approval.

Approved March 19, 1907.

## CHAPTER 133.

[S. B. No. 275—Crane]

### APPROPRIATION.

AN ACT Making an Appropriation for the State Historical Society of North Dakota.

WHEREAS, The rapid settlement of this state renders the procuring of historical data, relics and topographical drawings, and especially data relating to the Indian tribes and of the early explorers of the upper Missouri river, yearly more difficult; and

WHEREAS, The tenth legislative assembly of the state of North Dakota reposes great confidence in the ability, integrity and devotion of E. R. Steinbrueck to the field and museum work of said historical society; and

WHEREAS, The said tenth legislative assembly is confident that money appropriated under this act will be expended to the great benefit of this state and nation, and in partial recognition of the past valuable services of the said E. R. Steinbrueck; and

WHEREAS, The standing appropriation for the state historical society is inadequate to properly pay for the services of a field officer and for a curator of tne museum of said society; therefore

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

§ 1. APPROPRIATION.] There is hereby appropriated annually out of any money in the hands of the state treasurer, not otherwise appropriated, for the state historical society of North Dakota, the following sums, viz:

Toward salary of field officer, $750.

Toward salary of curator of museum, $500.

§ 2. EMERGENCY.] An emergency exists in this, that the work of the field officer shall begin in March, 1907, therefore this act shall be in force from and after its passage and approval.

Approved March 4, 1907.

# HOSPITALS

## CHAPTER 134.

[H. B. No. 309—Miller]

### HOSPITALS PROHIBITED.

AN ACT Prohibiting the Establishment of a Hospital for the Treatment of Patients for Pay in Any Residence Block of Any City Without the Consent of the Inhabitants of Such Block.

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

§ 1. PERMISSION TO ESTABLISH REQUIRED.] No hospital for the treatment of disease for pay shall be hereafter established in any residence block of any city in the state of North Dakota without first filing with the city auditor the written consent of the resident freeholders of such block.

Approved March 13, 1907.

# HOTELS

## CHAPTER 135.

[S. B. No. 16—Taylor]

### INSPECTION AND CONDUCT OF HOTELS.

AN ACT Providing for the Erection of Fire Escapes in Hotels, Inns and Public Lodging Houses, and Regulating the Conduct of Such Hotels, Inns and Public Lodging Houses, and Providing for the Appointment of an Inspector of Hotels, and His Compensation Therefor.

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

§ 1. HOTEL DEFINED.] Every building or structure kept, used or maintained as, or advertised as, or held out to the public to be an inn, hotel, or public lodging house or place where sleeping accommodations are furnished for hire to transient guests whether with or without meals, in which ten or more sleeping rooms are used for the accommodation of such guests, shall for the purpose of this act be defined to be a hotel, and wherever the word hotel shall occur in this act it shall be construed to mean every such structure as is described in this section.

§ 2. FIRE ESCAPES, HOW CONSTRUCTED.] Every hotel that is more than two stories high shall be provided with a hall on each floor extending from one outside wall to the other and at each end of such hall shall be equipped with an iron fire escape on the outside of the building, connecting on each floor above the first, with at least two openings, which shall be well fastened and secured, with landings not less than six feet in length and three in width, guarded by an iron railing not less than three feet in height. Such landings shall be connected by iron stairs not less than two feet wide and with steps of not less than six inches tread, and protected by a well secured hand rail on both sides and reaching to within ten feet of the ground, with a drop ladder twelve inches wide reaching from the lower platform to the ground. Such fire escapes shall be sufficient if a perpendicular iron ladder shall be used instead of the stairs, provided such iron ladder is placed at the extreme outside of the platforms and at least two feet away from the wall of the building and provided said ladder is equipped with round iron rounds not more than fifteen inches apart. The way of egress to such fire escape shall at all times be kept free and clear of all obstruction of any and every nature. There shall be posted and maintained in a conspicuous place in each hall and

in each guest's room except the halls and rooms on the ground floor of such hotel, a printed notice in characters not less than two inches high, calling attention to and directing the way to such fire escape.

§ 3. FIRE EXTINGUISHERS AND STANDPIPES.] Each and every hotel shall be provided with at least one efficient chemical fire extinguisher for every twenty-five hundred square feet or less of floor area, which such extinguisher or extinguishers shall be placed in a convenient location in a public hallway outside of the sleeping rooms and shall always be in condition for use; or in lieu thereof, such hotel shall be equipped with not less than one and one-fourth inch standpipe with hose connection and hose of sufficient length always attached in such hallway, which standpipe shall be supplied with a sufficient pressure of water.

§ 4. PROVISIONS FOR BUILDINGS NOT OVER TWO STORIES HIGH.] Every hotel which is not over two stories in height and which is not provided with such fire escape as is described in section two hereof shall provide in every bedroom or sleeping apartment on the second and third floors a manila rope at least five-eighths of an inch in diameter and of sufficient length to reach the ground, with knots or loops not more than fifteen inches apart, and of sufficient strength to sustain a weight and strain of at least five hundred pounds. Such rope shall be securely fastened to the joists or studding of the building as near the window as practicable and shall be kept coiled in plain sight at all times, nor shall such rope be covered by curtains or other obstructions. Every such hotel shall provide and maintain in a conspicuous place in every bedroom or sleeping apartment above the ground floor a printed notice calling attention to such rope and giving directions for its use.

§ 5. ELEVATOR SHAFTS TO BE PROTECTED.] Every hotel which is equipped with a passenger or freight elevator shall cause the shaftway of such elevator or elevators to be inclosed with an iron sheathing as nearly airtight as is practicable and shall provide tight doors to such shaftway, or in lieu of such sheathing shall provide automatic floor traps at each floor in such shaft; either of which appliances to be built in the most approved manner for the prevention of spread of fire by means of said shaft.

§ 6. SANITARY PROVISIONS.] Every hotel shall be well drained, constructed and plumbed according to established sanitary principles; shall be kept clean and in a sanitary condition and free from effluvia arising from any sewer, drain, privy, or other source within control of the owner, manager, agent or other person in charge; shall be provided with waterclosets or privies properly screened for the separate use of males and females, which waterclosets or privies shall be disinfected as often as may be necessary to keep them at all times in a sanitary condition

§ 7. PENALTY FOR FAILURE TO COMPLY WITH ACT.] Every owner, manager, agent or person in charge of a hotel who, after

thirty days' notice by the inspector hereinafter provided for in this act, shall fail to comply with any of the provisions of this act shall be deemed guilty of a misdemeanor, and shall be fined not less than ten dollars nor more than fifty dollars, or shall be imprisoned in the county jail for not less than ten days nor more than thirty days, or both, and every day that such hotel is carried on in violation of this act shall constitute a separate offense.

§ 8. INSPECTOR OF HOTELS. APPOINTMENT. BOND.] For the purpose of carrying into effect the provisions of this act the governor, by and with the advice and consent of the senate, shall appoint an inspector of hotels who shall hold office until the first Monday in January of the odd-numbered year next after his appointment, and until his successor qualifies, and who shall be prohibited from soliciting or selling goods or merchandise for any person, firm or corporation; but the governor may remove such inspector and appoint another in his place whenever he shall deem it necessary for the public good. Said inspector shall receive an annual salary of eighteen hundred dollars, payable monthly. He shall give bond to the state in the penal sum of five thousand dollars conditioned for the faithful performance of his official duties, to be approved by the secretary of state.

§ 9. POWERS AND DUTIES OF INSPECTOR.] It shall be the duty of the inspector to see that all of the provisions of this act are complied with, and said inspector shall personally inspect once in each year every hotel as defined by this act. Said inspector is hereby granted police power to enter any hotel at reasonable hours to determine whether the provisions of this act are being complied with. The inspector shall keep a complete set of books for public use and inspection showing the conditions of each hotel so inspected, together with the name or names of the owners, proprietors and managers thereof, and showing its sanitary condition, the number and condition of its fire escapes and any other information for the betterment of the public service.

§ 10. CERTIFICATE OF INSPECTOR TO BE POSTED.] If the inspector shall find after examination of any hotel that this law has been fully complied with, and the inspection fee has been paid to the inspector, he shall issue a certificate to that effect to the person operating the same, and said certificate shall be kept posted up in a conspicuous place in said inspected building.

§ 11. PENALTY FOR CERTIFYING FALSELY.] Any inspector who shall willfully certify falsely regarding any building inspected by him, and who shall issue a certificate to any person operating any hotel when such person has not complied with the provisions of this act, shall, on conviction thereof, be fined not less than fifty dollars nor to exceed five hundred dollars, and may be imprisoned not to exceed one year in the state prison, or both at the discretion of the court, and upon conviction shall be forever disqualified to hold said office.

§ 12. PENALTY FOR INTERFERING WITH INSPECTOR OR FAILURE TO PAY FEE.] Any owner, manager, agent or person in charge of a hotel who shall obstruct or hinder an inspector in the proper discharge of his duties under this act, or who shall refuse or neglect to pay the fee for inspection prescribed herein, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than ten dollars nor more than fifty dollars, or shall be imprisoned in the county jail for not less than ten days nor more than thirty days, or both.

§ 13. INSPECTOR AUTHORIZED TO MAKE ARRESTS.] It shall be the duty of the inspector, upon ascertaining by inspection or otherwise that any hotel is being carried on contrary to the provisions of this act, to make complaint and cause the arrest of the person so violating same, and it shall be the duty of the state's attorney in such case to prepare all necessary papers and conduct such prosecutions.

§ 14. INSPECTION FEE.] Every hotel containing twenty sleeping rooms or less for the accommodation of the public shall pay an inspection fee of five dollars when inspected under the provisions of this act, and every hotel containing more than twenty sleeping rooms and less than fifty sleeping rooms for the accommodation of the public shall pay an inspection fee of ten dollars, and every hotel containing fifty or more sleeping rooms shall pay an inspection fee of twenty dollars, when inspected under the terms of this act. Such fees shall be collected by the inspector at the time of inspection and if not paid on demand the inspector may sue therefor in his own name for the use of the state, and in such case the court shall allow and enter as a part of the judgment against the defendant all the costs of such action, including a fee not exceeding twenty-five dollars for any attorney necessarily employed in such action by the inspector.

§ 15. FEES, LESS EXPENSES, TURNED OVER TO THE STATE.] At the end of each month the inspector shall pay into the state treasury all moneys received by him as such, and file with the state auditor a verified statement of the amount and the sources thereof. Such moneys shall be credited to the "hotel inspection fund." On or before the tenth day of each month the inspector shall certify to the state auditor the amount due him as compensation and necessary traveling expenses for the preceding month, also items and amounts of all expenses necessarily incurred by him, including the cost of blanks, stationery, postage and travel, and such salaries and expenses being duly audited shall be paid by the state treasurer out of such hotel inspection fund and the state shall not be held responsible in any manner for any deficiency that may exist.

§ 16. PURE WATER FOR GUESTS.] It shall be the duty of every person conducting or operating a hotel, public inn, or lodging house, to see that the drinking water supplied by said hotel, public inn, or lodging house, is pure and free from disease germ. The source

of supply must be far enough removed from privy vaults or other means of contamination to prevent drainage from said vaults to the wells or other source of supply, and the water supply shall be subject to examination by the inspector, and when found unfit for drinking purposes its use must be discontinued forthwith.

§ 17. REPEAL.] All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 15, 1907.

# HUSBAND AND WIFE

## CHAPTER 136.

[S. B. No. 76—Kraabel]

### RIGHTS OF HUSBAND AND WIFE.

AN ACT to Amend Section 4082 of the Revised Codes of 1905, Relating to Separate and Mutual Rights and Liabilities of Husband and Wife.

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

§ 1. AMENDMENT.] Section 4082 of the revised codes of 1905 is hereby amended to read as follows:

§ 4082. SEPARATE AND MUTUAL RIGHTS AND LIABILITIES.] Neither the husband nor the wife, as such, is answerable for the acts of the other.

2. The earnings of the wife are not liable for the debts of the husband, and the earnings and accumulations of the wife and of her minor children living with her, or in her custody, while she is living separate from her husband, are the separate property of the wife; provided, however, that husband and wife shall be jointly and severally liable for any debts contracted by either while living together, for necessary household supplies, of food, clothing and fuel for themselves and family, and for the education of their minor children.

3. The separate property of the husband is not liable for the debts of the wife contracted before the marriage.

4. The separate property of the wife is not liable for the debts of her husband, but is liable for her own debts contracted before or after marriage.

5. No estate is allowed the husband as tenant by courtesy upon the death of his wife, nor is any estate in dower allotted to the wife upon the death of her husband.

Approved March 19, 1907.

# INSANE

## CHAPTER 137.

[H. B. No. 205—Sinclair]

### COUNTIES LIABLE FOR EXPENSES OF INSANE.

AN ACT to Repeal Sections 1195 and 1196 of the North Dakota Revised Codes of 1905, and Sections 1, 2, 3 and 4 of Chapter 76 of the Session Laws of 1905, Being Sections 1910, 1911 and 1912 of the Revised Codes of North Dakota of 1905, and Further to Provide for the Admission to the State Hospital for the Insane of Residents of Other States or Territories, and the Payment For Such Care and Treatment, and to Provide for the Payment by the Proper County or the State at Large for the Care and Treatment of All Inmates of Such State Hospital for the Insane, and to Determine the Legal Residence of All Such Patients, and to Provide for Reimbursing of the County from the Estate of the Patient for Such Care and Treatment, and to Provide Penalties for the Non-Enforcement of this Act.

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

§ 1. AMENDMENT.] Sections 1195 and 1196 of the revised codes of North Dakota of 1905, and sections 1, 2, 3 and 4 of chapter 76 of the session laws of 1905, being sections 1910, 1911 and 1912 of the revised codes of North Dakota of 1905, are hereby repealed.

§ 2. ADMISSION OF NON-RESIDENTS.] The residents of other states or territories may be admitted to the state hospital for the insane upon payment of the first cost of such board and treatment; provided, that no resident of another state or territory shall be received or retained to the exclusion of any resident of this state. If the superintendent shall receive any money or goods for the purpose of furnishing extra attention and comfort to any patient he shall account for the same in an itemized statement to the board of trustees.

§ 3. COST OF TREATMENT, HOW DETERMINED.] The board of trustees of the state hospital for the insane shall from time to time fix the amount to be paid for the board, care and treatment of the patients, which shall not exceed the sum of ten dollars per month for residents of the state; provided, however, that all non-residents shall pay the actual cost of care and treatment, and the amount so fixed shall be the sum the state hospital for the insane shall be entitled to demand for keeping any patient, and the certificate to that effect, subscribed and sworn to by the superintendent, shall be evidence of the amount due as fixed.

§ 4. EACH COUNTY PAYS CHARGES FOR ITS OWN PATIENTS.] The expense for the care, board and treatment of all patients in the state hospital for the insane shall be a charge upon each county sending such patient or patients to the state hospital for the insane, as hereinafter provided for.

§ 5. STATEMENTS SENT COUNTIES.] It shall be the duty of the superintendent to furnish to the county auditor of each county having patients in the state hospital for the insane a quarterly statement giving the number of patients and the names of each patient belonging to such county, and the cost of maintenance of same.

§ 6. LEGAL RESIDENCE DETERMINED.] When the superintendent of the state hospital for the insane has been duly notified that a patient sent to the state hospital for the insane from one county has a legal residence in another county, he shall thereafter hold and keep such patient at the expense of and as from the latter county, and such holding shall apply to the expense already incurred in behalf of such patient and remaining unadjusted.

§ 7. ADJUSTMENT BETWEEN COUNTIES.] Expense incurred by one county on account of insane persons whose legal residence is in another county shall be refunded by the county of such residence and shall be presented to the board of commissioners of the county sought to be charged, allowed and paid the same as other claims.

§ 8. LEVY OF TAX TO PAY CHARGES.] The superintendent shall certify to the state auditor on the first day of January, April, July and October of each year the amount not previously certified to by him that is due the said hospital for the insane from the several counties having patients chargeable thereto, and said state auditor shall pass the same to the credit of the state hospital for the insane. The state auditor shall thereupon notify the county auditor of each county so owing, of the amount thereof, and charge the same to said county, and the board of county commissioners shall levy a tax in said county for said amount, and pay the amount due the state into the state treasury, and should any county fail to levy such tax sufficient to pay the amount then due said state, and shall fail at the time of levying other county taxes, thereafter, to levy the tax aforesaid to an amount sufficient to pay the indebtedness subsequently incurred, it shall be the duty of the attorney general to bring in the name of the state an action against any county so failing as aforesaid, to enforce the levying of said tax.

§ 9. PENALTY FOR FAILURE TO LEVY TAX.] Upon the failure of any county to levy such tax as aforesaid to an amount sufficient to pay the amount then due the state, it shall be the duty of the state auditor to charge such delinquent county with a penalty of three per centum per month upon the amount of indebtedness, then six months due, for each month until payment thereof and penalty thereon be paid.

§ 10. TIME OF PAYMENT.] It shall be the duty of the county treasurer, upon the collection of the taxes herein required to be levied, to pay into the state treasury the amount due and owing from his county, at the time and in the manner required for the payment of state taxes collected, and the state auditor and the state treasurer shall upon the first days of January, April, July and October in each year, transfer the full amount received from counties, under the provisions of this article, to the account of the state hospital for the insane.

§ 11. TAXES NOT DIVERTED.] Taxes levied and collected in any county for the purpose named in this article shall be used only to defray the expenses of the insane which are chargeable to such county, and shall not be diverted to any other purpose nor be transferred to any other fund by the county authorities.

§ 12. IMPROPER CHARGES, HOW DETERMINED.] Whenever the superintendent of the state hospital for the insane has held and treated a patient as from one county and the county commissioners of such county make claim that such patient is not a proper charge against the said county, and such county commissioners shall notify the state auditor that it is claimed by them that such patient is not a proper charge against their county, and shall claim that the said patient is a proper charge against some other county, or that such patient is a proper charge against the state at large on account of being a resident of some portion of the state which is not in an organized county, or having no legal residence in any county of the state, it shall be the duty of the state auditor to give notice to the county auditor of each of said counties to file such proofs as they may have with the state auditor within thirty days from the time of such notification, and thereupon it shall be the duty of the state auditor to investigate the question of the residence of such patient and to determine of what county said patient is a proper charge, and shall thereupon notify each of said counties of such determination, and shall notify the superintendent of the state hospital for the insane of such determination, and the superintendent of the state hospital for the insane, and the state auditor and the counties as aforesaid shall thereafter treat and regard such patient as of the county, according to the determination of the state auditor; and if the state auditor shall find that such patient is not a proper charge against any county in the state, such patient shall thereafter be regarded as a proper charge against the state at large.

§ 13. RIGHT OF APPEAL.] If any county or the state of North Dakota shall be dissatisfied with the determination of the state auditor in regard to the finding aforesaid, such county or the state of North Dakota may appeal from the determination of the state auditor to the district court of the said county by serving a notice of appeal upon the state auditor and upon one of the members of the board of county commissioners of the county adversely

interested, within thirty days from the date of such finding, and thereupon it shall be the duty of the district court to determine the residence of such patient and determine to what county such patient is a proper charge, and such determination shall be conclusive unless an appeal shall be taken therefrom in the same manner as now provided for by law for appeals in civil actions.

§ 14. TO WHOM PROVISIONS APPLY.] The two preceding sections shall apply to all patients now or heretofore in the state hospital for the insane in reference to which a dispute may exist, as well as cases hereafter to arise, and the state auditor shall make his charges against the counties in accordance with the determination made as herein provided.

§ 15. EXPENSE CHARGEABLE AGAINST ESTATE OF INSANE PERSONS.] The amount incurred by any county of this state for treatment and maintenance of any insane person in the state hospital for the insane shall be a charge against the estate of such insane persons; provided, that the insane person has no heirs within the United States dependent on said estate for support; and provided, further, that no real property shall be sold during the life of the insane person; and further, provided, that no personal property shall be sold under five years from the date of the sending of such insane person to the state hospital for the insane, unless by order of the proper court where such property is liable to deteriorate in value during the time above specified, and when sold as above the county court shall order the proceeds thereof to be safely invested for the benefit of such insane person.

§ 16. EMERGENCY.] Whereas, an emergency exists, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 14, 1907.

# INSTRUMENTS LEGALIZED

## CHAPTER 138.

[S. B. No. 253—Plain]

### WRITTEN INSTRUMENTS LEGALIZED.

AN ACT to Legalize the Execution and Acknowledgement of Certain Deeds, Mortgages and Other Instruments in Writing, and the Record Thereof, and Making the Same or Certified Copies thereof, Admissible in Evidence.

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

§ 1. EXECUTION, ACKNOWLEDGEMENT, FILING AND RECORDING LEGALIZED.] The execution, acknowledgment, filing and recording

of all deeds, mortgages and other instruments in writing, affecting the title to real property in this state, in good faith made, taken or certified to prior to the first day of January, 1907, and which have been filed or recorded in the proper counties of this state, be and the same are hereby declared to be legal and valid for all purposes, anything in the laws of the territory of Dakota or the state of North Dakota, or of any other state, territory or country at the time of such execution, acknowledgment, witnessing, filing or recording, to the contrary notwithstanding.

§ 2. ACTS OF EXECUTORS, ADMINISTRATORS, DEPUTIES, OFFICERS OR ATTORNEYS IN FACT LEGALIZED.] The acts of all properly appointed and constituted executors, administrators, officers of corporation, deputy public officials and attorneys in fact, done in good faith, in the execution and acknowledgment of such instruments, are hereby declared to be legal and valid for all purposes, notwithstanding the fact that such executor, administrator, officer, deputy officer or attorney in fact may not have signed the same in the form provided by law in force at that time, or that the same was not sealed or stamped as required by laws in force at the time of such execution, and notwithstanding the fact that the certificate of acknowledgment thereon may not be in the form required or sealed as required by any laws in force at the time of making the same.

§ 3. ACKNOWLEDGMENTS LEGALIZED.] The acts of all notaries public or other officers, done in good faith in taking and certifying to the acknowledgment of such instruments, whether such officers were qualified or otherwise by law at the time to do so or not, are hereby declared legal and valid for all purposes.

§ 4. GOOD FAITH PRESUMED.] Good faith shall be presumed on the part of all persons and officers in the execution, acknowledgment, filing and recording of such instruments, and it shall be prima facie presumed that such officer acted within the scope of his authority.

Approved March 19, 1907.

## CHAPTER 139.

[S. B. No. 120—Purcell]

### PROOF OF WRITTEN INSTRUMENTS.

AN ACT to Repeal Chapter 59 of the Session Laws of 1897, Being Section 5334 of the Revised Codes of 1905, in Relation to the Method of Proof of Written Instruments and Contracts to Which There Are One or More Subscribing Witnesses, and to Re-enact the Same.

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

§ 1. REPEAL.] Chapter 59 of the laws of North Dakota, 1897, being section 5334 of the revised codes of 1905, and relating to the method of proof of a written instrument or contract to which there are one or more subscribing witnesses, be and the same is hereby repealed.

§ 2. PROVING WRITTEN INSTRUMENTS.] In proving any written instrument or contract to which there is a subscribing witness, or to which there are two or more subscribing witnesses, it shall not be necessary to call said witness or any one of two or more of said subscribing witnesses, but the instrument or contract may be proved, except for purposes of filing or recording the same, by the same evidence by which an instrument or contract to which there is no subscribing witness may be proved, nor shall it be permissible to prove such instrument or contract in any case by proof of the handwriting of said subscribing witness or witnesses as the case may be, but in all cases such instrument or contract must be proved in the same manner as one having no subscribing witness whatever.

§ 3. EMERGENCY.] Whereas, an emergency exists in that doubt has arisen as to the validity of chapter 59 of the session laws of 1897, being section 5334 of the revised codes of 1905, on account of the improper manner of enacting it, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 8, 1907.

# INSURANCE

## CHAPTER 140.

[S. B. 172—Simpson.]

### STANDARD FORMS OF INSURANCE POLICIES

AN ACT Establishing Standard Forms in which Policies of Life Insurance may be Issued in this State and in which Policies of Life Insurance Companies Organized under the Laws of this State may be Issued, and Regulating the Conditions and Provisions to be Contained in Policies of Life Insurance Companies that do not Adopt such Standard Forms.

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

§ 1. AUTHORITY REQUIRED TO ISSUE POLICIES.] No policy of life insurance shall be issued or delivered in this state and no policy of life insurance of a life insurance company organized under the laws of this state shall be issued unless authorized by the provisions of this act.

§ 2. STANDARD FORMS.] The following are established as standard forms in which policies of life insurance may be issued and delivered in this state, and in which policies of life insurance of life insurance companies organized under the laws of this state may be issued:

NORTH DAKOTA STANDARD LIFE INSURANCE POLICY.

(Insert "Ordinary" or "Limited Payment.")

..... Life

Age.....

Amount $..... Premium $.....

..... ..... ..... .....

..... ..... ..... .....

..... ..... ..... .....

Of North Dakota

In consideration of.....Dollars, receipt of which is hereby acknowledged, and of the payment of (insert amounts and times of payments of premiums) until (insert "the death of the insured" in ordinary life and "....full year's premiums shall have been paid or until the prior death of the insured" in limited payment life.)

Promises to pay upon receipt at the home office of the..... ....company in.....of due proof of death of..... of .....county of....., state of North Dakota,

herein called the insured, to.....beneficiary ..... with (insert "out" if so desired) right of revocation,..... dollars, less any indebtedness hereon to the company and any unpaid portion of the premium for the then current policy year.

*Change of Beneficiary.* When the right of revocation has been reserved, or in case of death of any beneficiary under either a revocable or irrevocable designation, the insured, subject to any existing assignment of the policy, may designate a new beneficiary with or without reserving right of revocation by filing written notice thereof at the home office of the company, accompanied by the policy for a suitable endorsement thereon. If any beneficiary shall die before the insured and the insured shall not have designated a new beneficiary the interest of such beneficiary shall be payable to the insured, (insert "his" or "her") executors, administrators or assigns.

*Payment of Premiums.* The company will accept payment of premiums at other times than as above stated, as follows:

..... .....

..... .....

Except as herein provided the payment of the premium or installment thereof shall not maintain the policy in force beyond the date when the next premium or installment thereof is payable.

All premiums are payable in advance at said home office, or to an agent of the company upon delivery of the receipt signed by one or more of the following officers of the company (insert titles of officers who may sign receipts) and countersigned by the said agent.

A grace of one month subject to any interest charge at the rate of....per centum per annum shall be granted for the payment of every premium after the first, during which month the insurance shall continue in force. If the insured shall die during the month of grace the over due premiums will be deducted from any amount payable hereon in any settlement hereunder.

*Conditions.* (The policy may here provide for restrictions of liability by reason of travel, occupation, change of residence, and suicide. These restrictions such as refer to military and naval services in time of war, must be applicable only to cases where the act of the insured provided against occurs within two years after the issuance of the policy.)

*Incontestability.* The policy constitutes the entire contract between the parties and shall be incontestable from its date except for non-payments of premiums and except as otherwise provided in this policy. All statements made by the insured shall in the absence of fraud be deemed representations and not warranties, and no such statement shall avoid this policy unless it is contained in written application and a copy of such application shall be indorsed upon or attached to this policy when issued. If the age of the insured has been understated the amount payable hereunder shall be such as the premium paid would have purchased at the correct age.

*Participation.* This policy shall participate in the surplus of the company and beginning not later than the end of the (insert first, second or third) policy year the company will annually determine and account for the portion of the divisible surplus accruing hereon.

*Dividends.* Dividends at the option of the owner of this policy shall on the ..... day of .....of each year (here may be inserted "after the first policy year" or "after the second policy year") be either:

1. Paid in cash, or,
2. Applied toward payment of any premium or premiums, or,
3. Applied to the purchase of paid-up additions to the policy, or,
4. Left to accumulate to the credit of the policy with interest at (here insert a rate not exceeding that used by the company for calculating its reserves) per centum per annum and payable at the maturity of the policy, but withdrawable at the anniversary of the policy.

Unless the owner of the policy shall elect otherwise within three months after the mailing by the company of a written notice requiring such election the dividends shall be paid in cash.

*Loans.* After three full years' premiums have been paid, the company at any time, while this policy is in force, will advance, on proper assignment of this policy, and on the sole security thereof at a rate of interest not greater than ....per centum per annum, which interest if not paid annually shall be added to the principal and bear the same rate of interest, a sum equal to, or, at the option of the owner of the policy, less than the reserve at the end of the current policy year on this policy and on any dividend additions thereto, computed according to the (designate mortality table adopted by the company for computing reserve) mortality table and interest at the rate of (designate rate of interest adopted by the company for computing reserves) per centum per annum, less (here may be inserted not more than two and one-half) per centum of the amount insured by this policy and of the dividend additions thereto.

The company, however, will deduct from such loan value any existing indebtedness to the company on the policy and any unpaid balance of the premium for the current policy year, and may collect interest in advance on the loan to the end of the current policy year. Such loan may be deferred by the company for not exceeding six months after the application therefore is made. Failure to repay any such advance or to pay interest shall not void this policy unless the total indebtedness hereon to the company shall be equal or exceed such loan value at the time of such failure and until one month after notice shall have been mailed by the company to the last known address of the insured and of the assignee, if any. No condition other than as herein provided shall be exacted as a prerequisite to any such advance.

*Assignment.* No assignment of this policy shall be binding upon the company until it be filed with the company at its said home office. The company assumes no responsibility as to the validity of any assignment.

*Option of Surrender or Lapse.* After this policy shall have been in force three years the owner, within one month after any default may elect (a) to accept the value of this policy in cash, or, (b) to have the insurance continued in force from date of default, without future participation and without the right to loan, for its face amount, including any outstanding dividend additions, less any indebtedness to the company thereon, or, (c) to purchase non-participating paid-up insurance payable at the same time and on the same conditions as this policy.

The cash value will be the reserve at the date of default on this policy and on any dividend additions thereto, computed according to the (designate mortality table adopted by the company for computing reserves) mortality table and interest at the rate of (designate rate of interest adopted by the company for computing reserves) per centum per annum, less (here may be inserted not more than two and one-half) per centum of the amount insured by this policy and of any dividend additions thereto, and less any existing indebtedness to the company on this policy. Payment of such cash value may be deferred by the company for not exceeding six months after the application therefor is made. The term for which the insurance will be continued or the amount of the paid-up policy will be such as the cash value will purchase as a net single premium at the attained age of the insured according to the (designate the mortality table adopted by the company for computing reserves) mortality table and interest at the rate of (designate rate of interest adopted by the company for computing reserves) per centum per annum. If the owner shall not, within one month from default, surrender this policy to the company at its home office for a cash surrender value or for paid up insurance as provided in options (a) and (c) the insurance will be continued as provided in option (b).

The figures in the following table are computed in accordance with the above provisions and upon the assumption that there is no indebtedness on the policy, and that there are no outstanding dividend additions.

(At the option of the company the following may be here inserted: "The figures apply to a policy for $1,000. As this contract is for $..... the loan, cash, or paid insurance available in any year will be $....., the amount stated in the table for that year:")

| | At end of Year | Cash or Loan Value | Paid up Life Insurance | Continued Insurance Years | Months | Days |
|---|---|---|---|---|---|---|
| 3 | $..... | $..... | $..... | ..... | ..... | ..... |
| 4 | $..... | $..... | $..... | ..... | ..... | ..... |
| 5 | $..... | $..... | $..... | ..... | ..... | ..... |
| 6 | $..... | $..... | $..... | ..... | ..... | ..... |
| 7 | $..... | $..... | $..... | ..... | ..... | ..... |
| 8 | $..... | $..... | $..... | ..... | ..... | ..... |
| 9 | $..... | $..... | $..... | ..... | ..... | ..... |
| 10 | $..... | $..... | $..... | ..... | ..... | ..... |
| 11 | $..... | $..... | $..... | ..... | ..... | ..... |
| 12 | $..... | $..... | $..... | ..... | ..... | ..... |
| 13 | $..... | $..... | $..... | ..... | ..... | ..... |
| 14 | $..... | $..... | $..... | ..... | ..... | ..... |
| 15 | $..... | $..... | $..... | ..... | ..... | ..... |
| 16 | $..... | $..... | $..... | ..... | ..... | ..... |
| 17 | $..... | $..... | $..... | ..... | ..... | ..... |
| 18 | $..... | $..... | $..... | ..... | ..... | ..... |
| 19 | $..... | $..... | $..... | ..... | ..... | ..... |
| 20 | $..... | $..... | $..... | ..... | ..... | ..... |

Figures for later years will be furnished upon request.

*Reinstatement.* In case of continued temporary insurance under the above provisions this policy upon evidence of insurability satisfactory to the company may be reinstated within the first three years of the term for which the insurance is continued by payment of arrears of premiums with interest at (here insert not more than six) per centum per annum.

*Options at Maturity.* The insured, by written notice to the company at its home office, and with the written consent of the assignee and irrevocable beneficiary, if any, may elect to have the net sum payable under this policy paid either in cash or as follows:

1. By the payment of interest thereon at ..... per centum per annum payable annually, to the payee under this policy at the end of each year during the life of the payee and by the payment upon the death of the payee of the said net sum and accrued interest to the executors, administrators or assigns of the payee, unless otherwise directed in said notice.

2. By the payment of equal annual installments for a specified number of years, the first installment being payable immediately, in accordance with the following table for each $1,000 of said net sum.

3. By the payment of equal annual installments payable at the beginning of each year for a fixed period of twenty years and for so many years longer as the payee shall survive in accordance with the following table for each $1,000 of said net sum.

Installments payable under options two or three which shall not have been paid prior to the death of the payee shall be paid,

unless otherwise directed in said notice, to the executors, administrators or assigns of the payee.

If the insured shall not have directed otherwise, the beneficiary may, after the death of the insured, by like written notice, and with the written consent of the assignee, if any, select either of the above options.

Unless otherwise specified by the insured the payee may on any interest date receive the amount yet due under option one, and may at any time receive the commuted value of payments yet to be made, computed upon the same basis as option two in the following table, provided that no such commutation will be made under three, except after the death of the payee occurring within the aforesaid twenty years.

TABLE OF INSTALLMENTS FOR EACH $1,000.

| Option 2. | | Option 3. | |
|---|---|---|---|
| Number of Annual Installments | Amount of Each Installment | Age of Payee when Policy Becomes Payable | Amount of Each Installment |
| ..... | $..... | ..... | $..... |
| ..... | $..... | ..... | $..... |
| ..... | $..... | ..... | $..... |
| ..... | $..... | ..... | $..... |
| ..... | $..... | ..... | $..... |
| ..... | $..... | ..... | $..... |
| ..... | $..... | ..... | $..... |
| ..... | $..... | ..... | $..... |
| ..... | $..... | ..... | $..... |
| ..... | $..... | ..... | $..... |
| ..... | $..... | ..... | $..... |
| ..... | $..... | ..... | $..... |
| ..... | $..... | ..... | $..... |
| ..... | $..... | ..... | $..... |
| ..... | $..... | ..... | $..... |
| ..... | $..... | ..... | $..... |
| ..... | $..... | ..... | $..... |
| ..... | $..... | ..... | $..... |
| ..... | $..... | ..... | $..... |
| ..... | $..... | ..... | $..... |

Agents are not authorized to modify this policy or extend the time for paying a premium.

In witness whereof, the company has caused this policy to be executed this .....day of .....

## NORTH DAKOTA STANDARD LIFE INSURANCE POLICY

Endowment.

Age.....

Amount $..... Premium $.....

.....

.....

.....

of North Dakota.

In consideration of .....dollars, receipt of which is hereby acknowledged, and the payment of (here insert amounts and times of payments of premiums) until .....full year's premiums shall have been paid or until the prior death of the insured. Promises to pay at the home office of the company in..... to .....of ....., county of ....., state of North Dakota, herein called the insured, on the .....day of ....., if the insured be then living, or upon receipt at said home office of due record [proof] of the prior death of the insured, to ....., beneficiar..., with (insert "out" if so desired) right of revocation, .....dollars, less any indebtedness hereon to the company and any unpaid portion of the premium for the then current policy year.

*Change of Beneficiary.* When the right of revocation has been reserved or in case of the death of any beneficiary under either a revocable or irrevocable designation, the insured, subject to any existing assignment of the policy, may designate a new beneficiary with or without reserving right of revocation by filing written notice thereof at the home office of the company accompanied by the policy for suitable indorsement thereon. If any beneficiary shall die before the insured, and the insured shall not have designated a new beneficiary, the interest of such beneficiary shall be payable to the insured (insert "his" or "her") executive, administrators or assigns.

*Payments of Premiums.* The company will accept payments of premiums at other times than as stated above, as follows:

.....

.....

Except as herein provided the payment of a premium or installment thereof shall not maintain the policy in force beyond the date when the next premium or installment thereof is payable.

All premiums are payable in advance at the said home office or to any agent of the company upon delivery of a receipt signed by one or more of the following officers of the company (insert titles of officers who may sign receipts), and countersigned by said agent.

A grace of one month subject to an interest charge at the rate of .....per centum per annum, shall be granted for the payment of every premium after the first, during which month the insurance

shall continue in force. If the insured shall die during the month of grace the overdue premium will be deducted from any amount payable hereon in any settlement hereunder.

*Conditions.* (The policy may here provide for restriction of liability by reason of travel, occupation, change of residence, and suicide. These restrictions, except such as refer to military and naval service in time of war, must be applicable only to cases where the act of the insured provided against occurs within two years after the issuance of the policy.)

*Incontestability.* This policy constitutes the entire contract between the parties and shall be incontestable from its date, except for non-payment of premiums and except as otherwise provided in this policy. All statements made by the insured shall, in the absence of fraud, be deemed representations and not warranties, and no such statement shall void this policy unless it it contained in a written application and a copy of such application shall be indorsed upon or attached to this policy when issued. If the age of the insured has been understated, the amount payable hereunder shall be such as the premium paid would have purchased at the correct age.

*Participation.* This policy shall participate in the surplus of the company and beginning not later than the end of the (insert first, second or third) policy year the company will annually determine and account for the portion of the divisible surplus accruing hereon.

*Dividends.* Dividends at the option of the owner of this policy shall on the .....day of .....of each year (here may be inserted "after the first policy year" or "after the second policy year") be either:

1. Paid in cash, or,
2. Applied toward the payment of any premium or premiums, or,
3. Applied to the purchase of paid-up additions to the policy, or,
4. Left to accumulate to the credit of the policy with the interest at (here insert a rate not exceeding that used by the company in calculating its reserves) per centum per annum and payable at the maturity of the policy, but withdrawable on any anniversary of the policy.

Unless the owner of this policy shall elect otherwise within three months after the mailing by the company of a written notice requiring such election, the dividends shall be paid in cash.

*Loans.* After three full year's premiums have been paid the company at any time while this policy is in force, will advance, on proper assignment of the policy and on the sole security thereof, at a rate of interest not greater than .....per centum per annum, which interest if not paid annually shall be added to the principal and bear the same rate of interest, a sum equal to, or, at the option of the owner of the policy, less than, the reserve at

the end of the current policy year, on this policy and on any dividend additions thereto, computed according to the (designate mortality table adopted by the company for computing reserves) mortality table, and interest at the rate of (designate rate of interest adopted by the company for computing reserves) per centum per annum, less (here may be inserted not more than two and one-half) per centum of the amount insured by this policy and of any dividend additions thereto. The company, however, will deduct from such loan value any existing indebtedness to the company on this policy, and any unpaid balance of the premium for the current policy year, and may collect interest in advance on the loan to the end of the current policy year. Such loan may be deferred by the company for not exceeding six months after the application therefor is made. Failure to repay any such advance or to pay interest shall not void this policy unless the total indebtedness hereon to the company shall equal or exceed such loan value at the time of such failure and until one month after notice shall have been mailed by the company to the last known address of the insured and of the assignee, if any.

No conditions other than as herein provided shall be exacted as a prerequisite to any such advance.

*Assignment.* No assignment of this policy shall be binding upon the company until it be filed with the company at its said home office. The company assumes no responsibility as to the validity of any assignment.

*Options on Surrender or Lapse.* After this policy shall have been in force three full years the owner, within one month after any default, may elect (a) to accept the value of this policy in cash, or, (b) to have the insurance continue in force from date of default without future participation and without the right to loans, for its face amount, including any outstanding dividend additions, less any indebtedness to the company hereon, or, (c) to purchase non-participating paid-up insurance payable at the same times and on the same conditions as this policy. The cash value will be the reserve at the date of default on this policy and on any dividend additions thereto computed according to the (designate mortality table adopted by the company for computing reserves) mortality table and interest at the rate of (designate rate of interest adopted by the company for computing reserves) per centum per annum less (here may be inserted not more than two and one-half) per centum of the amount insured by this policy and of any dividend additions thereto, and less any existing indebtedness to the company on this policy. Payment of such cash value may be deferred by the company for not exceeding six months after the application therefore is made.

The term for which the insurance will be continued or the amount of the paid-up policy will be such as the cash value will purchase as a net single premium at the attained age of the insured,

according to the (designate the mortality table adopted by the company for computing reserves) mortality table and interest at the rate of (designate rate of interest adopted by the company for computing reserves) per centum per annum. If the sum applicable to the purchase of temporary insurance shall be more than sufficient to continue the insurance to the end of the endowment term named in this policy the excess shall be used to purchase in the same manner non-participating paid-up pure endowment, payable at the end of the endowment term and on the same conditions. If the owner shall not, within one month from default surrender this policy to the company at the home office for a cash surrender value or for paid-up insurance as provided in options (a) and (c) the insurance will be continued as provided in option (b).

The figures in the following table are computed in accordance with the above provisions and upon the assumption that there is no indebtedness on the policy, and that there are no outsanding dividend additions.

(At the option of the company the following may be here inserted: "The figures apply to a policy of $1,000. As this contract is for $....., the loan, cash, paid-up insurance on pure endowment available in any year will be .....the amount stated in the table for this year.")

| | At End of Year | Cash or Loan Value | Paid Up Endowment Insurance | Continued Insurance Years | Months | Days | Pure Endowment |
|---|---|---|---|---|---|---|---|
| 3 | $..... | $..... | $..... | ..... | ..... | ..... | $..... |
| 4 | $..... | $..... | $..... | ..... | ..... | ..... | $..... |
| 5 | $..... | $..... | $..... | ..... | ..... | ..... | $..... |
| 6 | $..... | $..... | $..... | ..... | ..... | ..... | $..... |
| 7 | $..... | $..... | $..... | ..... | ..... | ..... | $..... |
| 8 | $..... | $..... | $..... | ..... | ..... | ..... | $..... |
| 9 | $..... | $..... | $..... | ..... | ..... | ..... | $..... |
| 10 | $..... | $..... | $..... | ..... | ..... | ..... | $..... |
| 11 | $..... | $..... | $..... | ..... | ..... | ..... | $..... |
| 12 | $..... | $..... | $..... | ..... | ..... | ..... | $..... |
| 13 | $..... | $..... | $..... | ..... | ..... | ..... | $..... |
| 14 | $..... | $..... | $..... | ..... | ..... | ..... | $..... |
| 15 | $..... | $..... | $..... | ..... | ..... | ..... | $..... |
| 16 | $..... | $..... | $..... | ..... | ..... | ..... | $..... |
| 17 | $..... | $..... | $..... | ..... | ..... | ..... | $..... |
| 18 | $..... | $..... | $..... | ..... | ..... | ..... | $..... |
| 19 | $..... | $..... | $..... | ..... | ..... | ..... | $..... |
| 20 | $..... | $..... | $..... | ..... | ..... | ..... | $..... |

Figures for later years will be furnished upon request.

*Reinstatement.* In case of continued temporary insurance under the above provision this policy upon evidence of insurability satisfactory to the company may be reinstated within the first three years of the term for which the insurance is continued, by payment

of arrears of premiums with interest at (here insert not greater than six) per centum per annum.

*Options at Maturity.* The insured, by written notice to the company at its home office, and with written consent of the assigned and irrevocable beneficiary, if any, may elect to have the net sum payable under this policy paid either in cash or as follows:

1. By the payment of interest thereon at .....per centum per annum payable annually, to the payee under this policy at the end of each year during the life of the payee and by the payment upon the death of the payee of the said net sum and accrued interest to the executors, administrators or assigns of the payee, unless otherwise directed in said notice.

2. By the payment of equal annual installments for a specified number of years, the first installment being payable immediately in accordance with the following table for each $1,000 of said net sum.

3. By the payment of equal annual installments payable at the beginning of each year for a fixed period of twenty years, and for so many years longer as the payee shall survive, in accordance with the following table for each $1,000 of said net sum.

Installments payable under options two or three which shall not have been paid prior to the death of the payee shall be paid, unless otherwise directed in said notice, to the executors, administrators or assigns of the payee.

If the insured shall not have directed otherwise the beneficiary may, after the death of the insured, by like written notice, and with the written consent of the assignee, if any, select either of the above options.

Unless otherwise specified by the insured the payee may on any interest date receive the amount yet due under option one, and may at any time receive the commuted value of payments yet to be made, computed upon the same basis as option two in the following table, provided that no such commutation will be made under three except after the death of the payee occurring within the aforesaid twenty years.

## TABLE OF INSTALLMENTS FOR EACH $1,000.

| Option 2. | | Option 3. | |
|---|---|---|---|
| Number of Annual Installments | Amount of Each Installment | Age of Payee when Policy Becomes Payable | Amount of Each Installment |
| ..... | $..... | ..... | $..... |
| ..... | $..... | ..... | $..... |
| ..... | $..... | ..... | $..... |
| ..... | $..... | ..... | $..... |
| ..... | $..... | ..... | $..... |
| ..... | $..... | ..... | $..... |
| ..... | $..... | ..... | $..... |
| ..... | $..... | ..... | $..... |
| ..... | $..... | ..... | $..... |
| ..... | $..... | ..... | $..... |
| ..... | $..... | ..... | $..... |
| ..... | $..... | ..... | $..... |
| ..... | $..... | ..... | $..... |
| ..... | $..... | ..... | $..... |
| ..... | $..... | ..... | $..... |
| ..... | $..... | ..... | $..... |
| ..... | $..... | ..... | $..... |
| ..... | $..... | ..... | $..... |
| ..... | $..... | ..... | $..... |
| ..... | $..... | ..... | $..... |

Agents are not authorized to modify this policy or to extend the time for paying a premium.

In witness whereof the company has caused this policy to be executed this .....day of .....

## NORTH DAKOTA STANDARD LIFE INSURANCE POLICY.

(Insert "Ordinary" or "Limited Payment") Life Fixed Survivorship Annuity.

Age.....

Amount $..... Premium $.....

.....

.....

.....

of North Dakota.

In consideration of .....dollars, receipt of which is hereby acknowledged, and of the payment of (here insert amounts and times of payments of premium) until (insert "the death of the insured" in ordinary life and ".....full year's premiums shall have been paid or until the prior death of the insured" in limited payment life.)

Promises to pay at its home office in....., .....dollars in twenty equal annual installments of $..... to..... (herein called the beneficiary),

(insert "his" or "her") executors, administrators or assigns, with (insert "out" if so desired) right of revocation, if (insert "he" or "she") survives the insured (otherwise to the executors, administrators or assigns of the insured) the first installment being payable immediately upon receipt of due proof of the death of the insured, any indebtedness to the company on this policy, together with the balance, if any, of the then current year's premium being deducted from the amounts first payable under this contract.

Should the beneficiary live to receive the twenty installments payable to (insert "him" or "her") as above provided, the company will pay (insert "him" or "her") annually during the remainder of (insert "his" or "her") life the sum of $.....beginning one year after the date when the twentieth installment payable hereunder shall fall due.

*Change of Beneficiary.* When the right of revocation has been reserved, or in case of the death of any beneficiary under either a revocable or irrevocable designation, the insured subject to any existing assignment of the policy, may designate a new beneficiary with or without reserving right of revocation, by filing written notice thereof at the home office of the company, accompanied by the policy for suitable indorsement thereon. If any beneficiary shall die before the insured and the insured shall not have designated a new beneficiary, the interest of such beneficiary shall be payable to the insured, (insert "his" or "her") executors, administrators or assigns. If a new beneficiary shall be designated only twenty annual installments will be payable under this policy, and future (if necessary, insert "semi" or "quarterly") annual premiums will be reduced to .....dollars each.

*Payment of Premiums.* The company will accept payment of premiums at other times than as stated above, as follows:

.....

.....

Upon return of this policy to the company accompanied by evidence satisfactory to the company of the death of the beneficiary the company will reduce the future (here insert "annual," "semi-annual" or "quarterly") premium to $..... each.

Except as herein provided the payment of a premium or installment thereof shall not maintain the policy in force beyond the date when the next premium or installment thereof is payable.

All premiums are payable in advance at said home office, or to an agent of the company upon delivery of a receipt signed by one or more of the following officers of the company (insert titles of officers who may sign receipts) and countersigned by said agent.

A grace of one month subject to an interest charge at the rate of ....per centum per annum shall be granted for the payment of every premium after the first, during which month the insurance shall continue in force. If the insured shall die during

the month of grace the overdue premium will be deducted from any amount payable hereon in any settlement hereunder.

*Conditions.* (The policy may here provide for restriction of liability by reason of travel, occupation, change of residence, and suicide. These restrictions, except such as refer to military and naval service in time of war, must be applicable only to cases where the act of the insured provided against occurs within two years after the issuance of the policy.)

*Incontestability.* This policy constitutes the entire contract between the parties and shall be incontestable from its date, except for non-payment of premiums and except as otherwise provided in this policy. All statements made by the insured shall in the absence of fraud be deemed representations and not warranties and no such statement shall void this policy unless it is contained in a written application and a copy of such application shall be indorsed upon or attached to this policy when issued.

If the age of the insured has been understated or if the age of the beneficiary has been overstated, the amount payable hereunder shall be such as the premium paid would have purchased at the correct age.

*Participation.* This policy shall participate in the surplus of the company and beginning not later than the end of the (insert first, second or third) policy year the company will annually determine and account for the portion of the divisible surplus accruing thereon.

*Dividends.* Dividends at the option of the owner of the policy shall on the .....day of .....of each year (here may be inserted "after the first policy year" or "after the second policy year") be either:

1. Paid in cash, or,
2. Applied toward the payment of any premium or premiums, or,
3. Applied to the purchase of paid-up additions to the policy, payable in twenty annual installments at the same times as the original amount insured under this policy is payable. The payments of such twenty installments shall discharge the company from all liability on account of such dividend additions, or
4. Left to accumulate to the credit of the policy with interest at (here insert a rate not exceeding that used by the company in calculating its reserves) per centum per annum and payable at the maturity of the policy, but withdrawable on any anniversary of the policy.

Unless the owner of this policy shall elect otherwise within three months after the mailing by the company of a written notice requiring such election, the dividends shall be paid in cash.

*Loans.* After three full year's premiums have been paid, the company at any time, while this policy is in force, will advance on the proper assignment of this policy and on the sole security thereof,

at a rate of interest not greater than .....per centum per annum, which interest if not paid annually shall be added to the principal and bear the same rate of interest, a sum equal to, or, at the option of the owner of the policy, less than, the reserve at the end of the current policy year required to provide for the twenty installments payable under this policy and for any dividend additions thereto and no more, computed according to the (designate mortality table adopted by the company for computing reserves) mortality table and interest at the rate of (designate rate of interest adopted by the company for computing reserves) per centum per annum, less (here may be inserted not more than two and one-half) per centum per annum of the amount insured by the policy, and of any dividend additions thereto. The company will deduct, however, from such loan value any existing indebtedness to the company on the policy and any unpaid balance of the premium for the current policy year, and may collect interest in advance on the loan to the end of the current policy year. Such loan may be deferred by the company for not exceeding six months after the application therefor is made. Failure to repay any such advance or to pay interest shall not void this policy unless the total indebtedness hereon to the company shall equal or exceed such loan value at the time of such failure, and until one month after notice shall have been mailed by the company to the last known address of the insured and of the assignee, if any. No condition other than as herein provided shall be exacted as a prerequisite to any such advance.

*Assignment.* No assignment of this policy shall be binding upon the company until it be filed with the company at its said home office. The company assumes no responsibility as to the validity of any assignment.

*Options on Surrender or Lapse.* After this policy shall have been in force three full years the owner, within one month after any default may elect,

(a) To accept the value of the policy in cash, or,

(b) To have the insurance continued in force from date of default without future participation and without the right to loans, for its face amount, including any outstanding dividend additions, less any indebtedness to the company hereon, or,

(c) To purchase non-participating paid-up insurance, payable except as hereinafter provided, at the same time and on the same conditions as this policy. The cash value will be the reserve at the date of default required to provide for the twenty installments payable under this policy and for any dividend additions hereto, computed according to the (designate mortality table adopted by the company for computing reserves) mortality table and interest at the rate of (designate rate of interest adopted by the company for computing reserves) per centum per annum, less (here may be inserted not more than two and one-half) per centum of the

amount insured by this policy and of any dividend additions thereto, and less any existing indebtedness to the company on this policy. Payment of such cash value may be deferred by the company for not exceeding six months after the application therefor is made. The term for which the insurance will be continued or the amount of the paid-up policy will be such as the cash value would purchase as a net single premium at the attained age of the insured according to the (designate the mortality table adopted by the company for computing reserves) mortality table and interest at the rate of (designate the rate of interest adopted by the company for computing reserves) per centum per annum. If the owner shall not within one month from default surrender this policy to the company at its home office for a cash surrender value or paid-up insurance as provided in options (a) and (c) the insurance will be continued as provided in option (b). The paid-up or continued temporary insurance will be payable in twenty equal installments and a payment of twenty installments under either option shall discharge the company from all liability under this policy. The figures in the following table are computed in accordance with the above provisions and upon the assumption that there is no indebtedness upon the policy, and that there are no outstanding dividend additions. (At the option of the company the following may be here inserted: "The figures apply to a policy for $1,000. As this contract is for $..... the loan, cash, or paid-up insurance, available in any year will be $..... the amount stated in the table for that year.")

| At End of Year | Cash or Loan Value | Paid Up Life Insurance | Continued Insurance Years | Months | Days |
|---|---|---|---|---|---|
| 3 | $..... | $..... | ..... | ..... | ..... |
| 4 | $..... | $..... | ..... | ..... | ..... |
| 5 | $..... | $..... | ..... | ..... | ..... |
| 6 | $..... | $..... | ..... | ..... | ..... |
| 7 | $..... | $..... | ..... | ..... | ..... |
| 8 | $..... | $..... | ..... | ..... | ..... |
| 9 | $..... | $..... | ..... | ..... | ..... |
| 10 | $..... | $..... | ..... | ..... | ..... |
| 11 | $..... | $..... | ..... | ..... | ..... |
| 12 | $..... | $..... | ..... | ..... | ..... |
| 13 | $..... | $..... | ..... | ..... | ..... |
| 14 | $..... | $..... | ..... | ..... | ..... |
| 15 | $..... | $..... | ..... | ..... | ..... |
| 16 | $..... | $..... | ..... | ..... | ..... |
| 17 | $..... | $..... | ..... | ..... | ..... |
| 18 | $..... | $..... | ..... | ..... | ..... |
| 19 | $..... | $..... | ..... | ..... | ..... |
| 20 | $..... | $..... | ..... | ..... | ..... |

Figures for later years will be furnished upon request.

*Reinstatement.* In case of continued temporary insurance under the above provisions this policy upon evidence of insurability satisfactory to the company may be reinstated within the first three years of the term for which the insurance is continued by payment of arrears of premium with interest at (here insert not greater than six) per centum per annum.

.....

.....

Agents are not authorized to modify this policy or extend the time for paying the premium.

In witness whereof the company has caused this policy to be executed this .....day of .....

NORTH DAKOTA STANDARD LIFE INSURANCE POLICY.

Endowment Fixed Survivorship Annuity.

Age.....

Amount $..... Premium $.....

.....

.....

.....

of North Dakota.

In consideration of .....dollars, receipt of which is hereby acknowledged, and of the payment of (here insert amounts in times of payments of premiums) until .....full year's premiums shall have been paid or until the prior death of the insured.

Promises to pay at its home office in....., .....dollars in twenty equal annual installments of $..... to the insured, the first installment to be pavable on the .....dav of ....., 190.., and .....if the insured shall die before receiving all the twenty installments herein provided for, the remainder of such twenty installments shall be payable as they fall due to..... .....(herein called the beneficiary), (insert "his" or "her") execuotrs, administrators or assigns, with..... (insert "out" if so desired) right of revocation, if (insert "he" or "she") survives the insured, otherwise to the executors, administrators or assigns of the insured.

Should the insured die before (insert date of maturity) this policy shall be payable to the beneficiary (insert "his" or "her") executors, administrators or assigns, if (insert "he" or "she") survives the insured, otherwise to the executors, administrators or assigns of the insured, (the first installment, being payable immediately upon receipt of due proof of the death of the insured.)

Any indebtedness to the company on this policy together with the balance, if any, of the then current year's premium, will be deducted from the amounts first payable under this contract.

Should the insured or beneficiary live to receive the twenty installments payable as above provided, the company, beginning one year after the date when the twentieth installment payable hereunder shall fall due, will pay the sum of $..... annually to the insured, or, in the event of the death of the insured, to the beneficiary the said annual payment to be due and payable so long as either the insured or beneficiary is living.

*Change of Beneficiary.* When the right of revocation has been reserved, or in case of the death of any beneficiary under either a revocable or irrevocable designation, the insured, subject to any existing assignment of the policy, may designate a new beneficiary with or without reserving right of revocation by filing written notice thereof at the home office of the company, accompanied by the policy for suitable indorsement thereon.

If any beneficiary shall die before the insured and the insured shall not have designated a new beneficiary the interest of such beneficiary shall be payable to the insured, (insert "his" or "her") executors, administrators or assigns. If a new beneficiary shall be designated only twenty annual installments will be payable under this policy, and future, (if necessary, insert "semi" or "quarter") annual premiums will be reduced to .....dollars each.

*Payment of Premiums.* The company will accept payment of premiums at other times than as stated above, as follows:

.....

.....

Upon return of this policy accompanied by evidence satisfactory to the company of the death of the beneficiary the company will reduce the future (here insert "annual" "semi-annual" or "quarterly") premiums to $.....each.

Except as herein provided the payment of a premium or installment thereof shall not maintain the policy in force beyond the date when the next premium or installment thereof is payable. All the premiums are payable in advance at said home office, or to any agent of the company upon delivery of a receipt signed by one or more of the following officers of the company (insert titles of officers who may sign receipts) and countersigned by said agent.

A grace of one month subject to an interest charge at the rate of ..... per centum per annum shall be granted for the payment of every premium after the first, during which month the insurance will continue in force. If the insured shall die during the month of grace the overdue premium will be deducted from any amount payable hereon in any settlement hereunder.

*Conditions.* (The policy may here provide for restrictions of liability by reason of travel, occupation, change of residence and suicide. These restrictions, except such as refer to military and naval service in time of war, must be applicable only to cases where the act of the insured provided against occurs within two years after the issuance of the policy.)

*Incontestability.* This policy constitutes the entire contract between the parties and shall be incontestable from its date, except for non-payment of premiums and except as otherwise provided in this policy. All statements made by the insured shall in the absence of fraud be deemed representations and not warranties and no such statement shall void this policy unless it is contained in a written application and a copy of such application shall be indorsed upon or attached to this policy when issued.

If the age of the insured has been understated, or if the age of the beneficiary has been overstated, the amount payable hereunder shall be such as the premium paid would have purchased at the correct age.

*Participation.* This policy shall participate in the surplus of the company and beginning not later than the end of the (insert first, second or third) policy year the company will annually determine and account for the portion of the divisible surplus accruing thereon.

*Dividends.* Dividends at the option of the owner of this policy shall on the.....day of.....of each year (here may be inserted "after the first policy year" or "after the second policy year") be either:

1. Paid in cash, or,
2. Applied toward the payment of any premium or premiums, or,
3. Applied to the purchase of paid-up additions to the policy, payable in twenty annual installments at the same time as the original amount insured under this policy is payable. The payment of such twenty installments shall discharge the company from all liability on account of such dividend additions; or,
4. Left to accumulate to the credit of the policy with interest at (here insert a rate not exceeding that used by the company in calculating its reserves) per centum per annum and payable at the maturity of the policy, but withdrawable on any anniversary of the policy.

Unless the owner of this policy shall elect otherwise within three months after the mailing by the company of a written notice requiring such election, the dividends shall be paid in cash.

*Loans.* After three full year's premiums have been paid the company at any time, while this policy is in force, will advance on proper assignment of this policy and on the sole security thereof, at a rate of interest not greater than ..... per centum per annum, which interest if not paid anuually shall be added to the principal and bear the same rate of interest, a sum equal to, or, at the option of the owner of the policy, less than, the reserve at the end of the current policy year required to provide for the twenty installments payable under this policy and for any dividend additions thereto, and no more, computed according to the (designate mortality table adopted by the company for computing reserves) mortality table, and interest at the rate of (designate rate of interest adopted by the com-

pany for computing reserves) per centum per annum, less (here may be inserted not more than two and one-half per centum) of the amount insured by this policy and of any dividend addition thereto,. The company, however, will deduct from such loan value any existing indebtedness to the company on the policy and any unpaid balance of the premium for the current policy year, and may collect interest in advance on the loan to the end of the current policy year. Such loan may be deferred by the company for not exceeding six months after the application therefor is made. Failure to repay any such advance or to pay interest shall not avoid this policy unless the total indebtedness hereon to the company shall equal or exceed such loan value at the time of such failure, and until one month after notice shall have been mailed by the company to the last known address of the insured and of the assignee, if any. No condition other than as herein provided shall be exacted as a prerequisite to any such advance.

*Assignment.* No assignment of this policy shall be binding upon the company until it be filed with the company at its said home office. The company assumes no responsibility as to the validity of the assignment.

*Options on Surrender or Lapse.* After this policy shall have been in force three full years the owner, within one month after any default, may elect:

(a) To accept the value of this policy in cash, or,

(b) To have the insurance continued in force from date of default, without future participation and without the right of loans, for its face amount, including outstanding dividend additions, less any indebtedness to the company hereon, or,

(c) To purchase non-participating paid-up insurance, payable, except as hereinafter provided, at the same time and on the same conditions as this policy. The cash value will be the reserve at the date of default required to provide for the twenty installments payable under this policy and for any dividend additions thereto, computed according to the (designate mortality table adopted by the company for computing reserves) mortality table and interest at the rate of (designate rate of interest adopted by the company for computing reserves) per centum per annum, less (here may be inserted not more than two and one-half) per centum of the amount insured by this policy and of any dividend additions thereto, and less any existing indebtedness to the company on this policy. Payment of such cash value may be deferred by the company for not exceeding six months after the application therefor is made. The term for which the insurance will be continued or the amount of the paid-up policy will be such as the cash value will purchase as a net single premium at the attained age of the insured according to the (designate the mortality table adopted by the company for computing reserves) mortality table and interest at the rate of (designate rate of interest adopted by the company for computing reserves) per

centum per annum. If the sum applicable to the purchase of temporary insurance shall be more than sufficient to continue the insurance to the end of the endowment term named in this policy, the excess shall be used to purchase in the same manner non-participating, paid-up pure endowment, payable at the end of the endowment term and on the same conditions.

If the owner shall not within one month from default surrender this policy to the company at its home office for a cash surrender value or for paid-up insurance as provided in options (a) and (c) the insurance will be continued as provided in option (b). The paid-up or continued temporary and pure endowment insurance will be payable in twenty equal annual installments and the payment of twenty installments under either option shall discharge the company from all liability under this policy.

The figures in the following table are computed in accordance with the above provisions and upon the assumption that there is no indebtedness on the policy, and that there are no outstanding dividend additions.

(At the option of the company the following may be here inserted: "The figures apply to a policy of $1,000. As this contract is for $....., the loan, cash, paid-up insurance or pure endowment available in any year will be ..... the amount stated in the table for that year.")

| At End of Year | Cash or Loan Value | Paid Up Endowment Insurance | Continued Insurance Years | Months | Days | Purse Endowment. |
|---|---|---|---|---|---|---|
| 3 | $..... | $..... | ..... | ..... | ..... | $..... |
| 4 | $..... | $..... | ..... | ..... | ..... | $..... |
| 5 | $..... | $..... | ..... | ..... | ..... | $..... |
| 6 | $..... | $..... | ..... | ..... | ..... | $..... |
| 7 | $..... | $..... | ..... | ..... | ..... | $..... |
| 8 | $..... | $..... | ..... | ..... | ..... | $..... |
| 9 | $..... | $..... | ..... | ..... | ..... | $..... |
| 10 | $..... | $..... | ..... | ..... | ..... | $..... |
| 11 | $..... | $..... | ..... | ..... | ..... | $..... |
| 12 | $..... | $..... | ..... | ..... | ..... | $..... |
| 13 | $..... | $..... | ..... | ..... | ..... | $..... |
| 14 | $..... | $..... | ..... | ..... | ..... | $..... |
| 15 | $..... | $..... | ..... | ..... | ..... | $..... |
| 16 | $..... | $..... | ..... | ..... | ..... | $..... |
| 17 | $..... | $..... | ..... | ..... | ..... | $..... |
| 18 | $..... | $..... | ..... | ..... | ..... | $..... |
| 19 | $..... | $..... | ..... | ..... | ..... | $..... |
| 20 | $..... | $..... | ..... | ..... | ..... | $..... |

Figures for later years will be furnished upon request.

*Reinstatement.* In case of continued temporary insurance under the above provisions this policy upon evidence of insurability satisfactory to the company may be reinstated within the first three years

of the term for which the insurance is continued by payment of arrears of premiums with interest at (here insert not greater than six) per centum per annum.

.....

.....

Agents are not authorized to modify this policy or to extend the time for paying a premium.

In witness whereof, the company has caused this policy to be executed this ..... day of.....

NORTH DAKOTA STANDARD LIFE INSURANCE POLICY.

Term.

Age.....

Amount $..... Premium $.....

.....

.....

.....

Of North Dakota.

In consideration of .....dollars, receipt of which is hereby acknowledged, and of the payment of (here insert amounts and times of payments of premiums) until ..... full year's premiums shall have been paid or until the prior death of the insured, promises to pay upon receipt at the home office of the company in ..... of due proof of the death of, ..... of ....., county of ..... state of North Dakota, herein called the insured, within ..... years from the date hereof, ..... ..... dollars, less any indebtedness hereon to the company and any unpaid portion of the premium for the then current policy year, at said home office, to ..... beneficiar ..... with (insert "out" if so desired) right of revocation.

*Change of Beneficiary.* When the right of revocation has been reserved, or in case of the death of any beneficiary under either a revocable or irrevocable designation, the insured, subject to any existing assignment of the policy, may designate a new beneficiary with or without reserving the right of revocation by filing written notice thereof at the home office of the company, accompanied by the policy for suitable indorsement thereon. If any beneficiary shall die before the insured and the insured shall not have designated a new beneficiary the interest of such beneficiary shall be payable to the insured, (insert "his" or "her") executors, administrators or assigns.

*Payment of Premiums.* The company will accept payment of premiums at other times than as stated above, as follows:

.....

.....

Except as herein provided the payment of a premium or installment thereof shall not maintain the policy in force beyond the date when the next premium or installment thereof is payable.

All premiums are payable in advance at said home office, or to an agent of the company upon delivery of a receipt signed by one or more of the following officers of the company (insert titles of officers who may sign receipts) and countersigned by said agent.

A grace of one month subject to an interest charge at the rate of ..... per centum per annum shall be granted for the payment of every premium after the first, during which month the insurance shall continue in force. If the insured shall die during the month of grace the overdue premium will be deducted from any amount payable hereon in any settlement hereunder.

*Conditions.* (The policy may here provide for restrictions of liability by reason of travel, occupation, change of residence and suicide. These restrictions, except such as refer to military and naval service in time of war, must be applicable only to cases where the act of the insured provided against occurs within two years after the issuance of the policy.)

*Incontestability.* This policy constitutes the entire contract between the parties and shall be incontestable, from its date, except for non-payment of premiums and except as otherwise provided in this policy. All statements made by the insured shall in the absence of fraud be deemed representations and not warranties and no such statement shall avoid this policy unless it is contained in a written application and a copy of such application shall be indorsed upon or attached to this policy when issued. If the age of the insured has been understated, the amount payable hereunder shall be such as the premium paid would have purchased at the correct age.

*Participation.* This policy shall participate in the surplus of the company and beginning not later than the end of the (insert first, second or third) policy year the company will annually determine and account for the portion of the divisible surplus accruing hereon.

*Dividends.* Dividends at the option of the owner of this policy shall on the.....day of ..... of each year (here may be inserted "after the first policy year" or "after the second policy year") be either

1. Paid in cash, or,

2. Applied toward the payment of any premium or premiums, or (the policy, at the option of the company, may here provide for a further option, as follows:)

3. Left to accumulate to the credit of the policy with interest at (here insert a rate not exceeding that used by the company in calculating its reserves) per centum per annum and payable at the maturity of the policy, or at the expiration of the term, but withdrawable on any anniversary of the policy.

Unless the owner of this policy shall elect otherwise within three months after the mailing by the company of a written notice requiring such election, the dividends shall be paid in cash.

*Assignment.* No assignment of this policy shall be binding upon the company, until it be filed with the company at its said home office.

The company assumes no responsibility as to the validity of any assignment.

(If the term of the policy is for more than twenty years, the company shall provide for continuance of insurance on surrender or lapse in the following form:—)

*Continuance of Insurance on Lapse.* In event of default in premium payments after this policy shall have been in force three full years, the reserve hereon according to the (designate mortality table adopted by the company for computing reserves) mortality table and interest at the rate of (designate rate of interest adopted by the company for computing reserves) per centum per annum, less (here may be inserted not more than two and one-half) per centum of the amount insured by this policv will be applied to the purchase of non-participating continued temporary insurance for the face amount of this policy at net single premium rates at the attained age of the insured according to the same table of mortalitv and rate of interest.

TABLE OF CONTINUED INSURANCE.

| At End of Year | Continued Insurance Years | Months | Days |
|---|---|---|---|
| 3 | ..... | ..... | ..... |
| 4 | ..... | ..... | ..... |
| 5 | ..... | ..... | ..... |
| 6 | ..... | ..... | ..... |
| 7 | ..... | ..... | ..... |
| 8 | ..... | ..... | ..... |
| 9 | ..... | ..... | ..... |
| 10 | ..... | ..... | ..... |
| 11 | ..... | ..... | ..... |
| 12 | ..... | ..... | ..... |
| 13 | ..... | ..... | ..... |
| 14 | ..... | ..... | ..... |
| 15 | ..... | ..... | ..... |
| 16 | ..... | ..... | ..... |
| 17 | ..... | ..... | ..... |
| 18 | ..... | ..... | ..... |
| 19 | ..... | ..... | ..... |
| 20 | ..... | ..... | ..... |

Figures for later years will be furnished upon request.

(If the term policy is for more than twenty years the company shall provide for reinstatement in the following form:)

*Reinstatement.* Upon evidence of insurability satisfactory to the companv this policy may be reinstated within the first three years of the term for which the insurance is continued by payment of arrears of premiums with interest at (here insert not greater than six) per centum per annum.

*Options at Maturity.* The insured, by written notice to the company at its home office and with written consent of the assignee and

irrevocable beneficiary, if any, may elect to have the net sum payable under this policy paid either in cash or as follows:

1. By the payment of interest thereon at .....per centum per annum, payable annually to the payee under this policy at the end of each year during the life of the payee and by the payment upon the death of the payee of the said net sum and accrued interest to the executors, administrators or assigns of the payee, unless otherwise directed in said notice.

2. By the payment of equal annual installments for a specified number of years, the first installment being payable immediately, in accordance with the following table for each $1,000 of said net sum.

3. By the payment of equal annual payments payable at the beginning of each year for a fixed period of twenty years and for so many years longer as the payee shall survive, in accordance with the following table for each $1,000 of said net sum.

Installments payable under options (2) or (3) which shall not have been paid prior to the death of the payee shall be paid, unless otherwise directed in said notice, to the executors, administrators, or assigns of the payee.

If the insured shall not have directed otherwise the beneficiary may, after the death of the insured, by like written notice, and with the written consent of the assignee, if any, select either of the above options.

Unless otherwise specified by the insured the payee may on any interest date receive the amount yet due under option (1), and may at any time receive the commuted value of payments yet to be made, computed upon the same basis as option (2) in the following table, provided that no such commutation will be made under (3), except after the death of the payee occurring within the aforesaid twenty years.

TABLE OF INSTALLMENTS FOR EACH $1,000.

| Option 2. | | Option 3. | |
|---|---|---|---|
| Number of Annual Installments | Amount of Each Installment | Age of Payee When Policy Becomes Payable | Amount of Each Installment |

(Blank lines)

Agents are not authorized to modify this policy or to extend the time for paying a premium.

In Witness Whereof, the company has caused this policy to be executed this ..... day of .....

## NORTH DAKOTA STANDARD LIFE INSURANCE POLICY.

Term with right to renew and change.

Age.....

Amount $..... .....Premium $.....

.....

OF NORTH DAKOTA.

In consideration of .....dollars, receipt of which is hereby acknowledged, and of the payment of (here insert amounts and times of payments of premium) until .....full year's premium shall have been paid or until the prior death of the insured,

Promises to pay upon receipt at the home office of the company in ..... of due proof of the death of..... of ....., county of ....., state of North Dakota, herein called the insured, within .....years from the date hereof, .....dollars, less any indebtedness hereon to the company and any unpaid portion of the premium for the then current policy year, at said home office, to ..... beneficiar .....with (insert "out" if so desired) right of revocation.

*Change of Beneficiary.* When the right of revocation has been reserved, or in case of the death of any beneficiary under either a revocable or irrevocable designation, the insured, subject to any existing assignment of the policy, may designate a new beneficiary with or without reserving right of revocation by filing written notice thereof at the home office of the company, accompanied by the policy for suitable indorsement thereon. If any beneficiary shall die before the insured and the insured shall not have designated a new beneficiary the interest of such beneficiary shall be payable to the insured (insert "his" or "her") executors, administrators or assigns.

*Payment of Premiums.* The company will accept payment of premiums at other times than as stated above, as follows:

.....

.....

Except as herein provided the payment of premium or installment thereof shall not maintain the policy in force beyond the date when the next premium or installment thereof is payable.

All premiums are payable in advance at said home office, or to an agent of the company upon delivery of a receipt signed by one or more of the following officers of the company (insert titles of officers who may sign receipts) and countersigned by said agent.

A grace of one month subject to an interest charge at the rate of .....per centmu per annum shall be granted for the payment of every premium after the first, during which month the insurance shall continue in force. If the insured shall die during the month of grace the overdue premium will be deducted from any amount payable hereon in any settlement hereunder.

*Conditions.* (The policy may here provide for restrictions of liability by reason of travel, occupation, change of residence, and suicide. These restrictions, except such as refer to military and naval service in time of war, must be applicable only to cases where the act of the insured provided against occurs within two years after the issuance of the policy.)

*Incontestability.* This policy constitutes the entire contract between the parties and shall be incontestable from its date, except for non-payment of premiums and except as otherwise provided in this policy. All statements made by the insured shall in the absence of fraud be deemed representations and not warranties and no such statement shall avoid this policy unless it is contained in a written application and a copy of such application shall be indorsed upon or attached to this policy when issued.

If the age of the insured has been understated, the amount payable hereunder shall be such as the premium paid would have purchased at the correct age.

*Participation.* This policy shall participate in the surplus of the company and beginning not later than the end of the (insert first, second and third) policy year the company will annually determine and account for the portion of the divisible surplus accruing hereon.

*Dividends.* Dividends at the option of the owner of this policy shall on the..... day of ..... of each year (here may be inserted "after the first policy year" or "after the second policy year") be either:

1. Be paid in cash, or,
2. Applied toward the payment of any premium or premiums. (The policy at the option of the company may here provide for a further option, as follows:)
3. Left to accumulate to the credit of the policy with interest at (here insert a rate not exceeding that used by the company in calculating its reserves) per centum per annum and payable at the maturity of the policy, or at the expiration of the term, but withdrawable on any anniversary of the policy.

Unless the owner of this policy shall elect otherwise within three months after the mailing by the company of a written notice requiring such election, the dividends shall be paid in cash.

*Privilege of Renewal.* The owner of this policy, if the insured be not over the age of sixty-five years, may renew this policy for the further terms of ..... years each by written notice to the company at its said home office accompanied by this policy for suitable indorsement on or before the expiration of the insurance hereunder and by paying the premiums to be fixed by the age on the birthday nearest to the date of such renewal in accordance with the following table for each one thousand dollars of insurance; if the insured shall be over the age of sixty-five years this policy may upon similar notice be surrendered for an ordinary life policy which shall

require premiums during life in accordance with the following table for each one thousand dollars of insurance.

TABLE OF PREMIUMS FOR RENEWALS.

| Attained Age | Years Term Premium Payable in Advance for Each $1,000 | Attained Age | Ordinary Life Premium Payable in Advance for Each $1,000 |
|---|---|---|---|

(Blank lines)

*Privilege to Change to Other Forms of Policies.* The owner of this policy may at any time within the first .....years exchange this policy for a participating policy for the same amount or any less amount upon the ordinary life, limited payment life, or endowment plan upon any anniversary of the policy, or within the month of grace by surrendering the policy to the company at said home office with written notice of the election and by paying the premiums to be fixed by the age on the birthday nearest to the date of such exchange according to the rates of the company then in force.

*Assignment.* No issignment of this policy shall be binding upon the company, until it be filed with the company at its said home office. The company assumes no responsibility as to the validity of any assignment.

(If the term of the policy is for more than twenty years the company shall provide for continuance of insurance on surrender or lapse in the following form:)

*Continuance of Insurance on Lapse.* In event of default in premium payments after this policy shall have been in force three full years, the reserve hereon according to the (designate mortality table, adopted by the company for computing reserves) mortality table, and interest at the rate of (designate rate of interest adopted by the company for computing reserves) per centum per annum, less (here may be inserted not more than two and one-half) per centum of the amount insured by this policy will be applied to the purchase of non-participating continued temporary insurance for the face amount of this policy at net single premium rates at the attained age of the insured according to the same table of mortality and rate of interest.

## TABLE OF CONTINUED INSURANCE

| At End of Year | Continued Insurance Years | Months | Days |
|---|---|---|---|
| 3 | ..... | ..... | ..... |
| 4 | ..... | ..... | ..... |
| 5 | ..... | ..... | ..... |
| 6 | ..... | ..... | ..... |
| 7 | ..... | ..... | ..... |
| 8 | ..... | ..... | ..... |
| 9 | ..... | ..... | ..... |
| 10 | ..... | ..... | ..... |
| 11 | ..... | ..... | ..... |
| 12 | ..... | ..... | ..... |
| 13 | ..... | ..... | ..... |
| 14 | ..... | ..... | ..... |
| 15 | ..... | ..... | ..... |
| 16 | ..... | ..... | ..... |
| 17 | ..... | ..... | ..... |
| 18 | ..... | ..... | ..... |
| 19 | ..... | ..... | ..... |
| 20 | ..... | ..... | ..... |

Figures for later years will be given upon request.

(If the term of the policy is for more than twenty years, the company shall provide for reinstatement in the following form:)

*Reinstatement.* Upon evidence of insurability satisfactory to the company this policy may be reinstated within the first three years of the term for which the insurance is continued by payment of arrears of premiums with interest at (here insert not greater than six) per centum per annum.

*Options at Maturity.* The insured, by written notice to the company at its home office and with the written consent of the assignee and irrevocable beneficiary, if any, may elect to have the net sum payable under this policy paid either in cash or as follows:

1. By the payment of interest thereon at ....per centum per annum, payable annually, to the payee under this policy at the end of each year during the life of the payee and by the payment upon the death of the payee of the said net sum and accrued interest to the executors, administrators or assigns of the payee, unless otherwise directed in said notice.

2. By the payment of equal annual installments for a specified number of years, the first installment being payable immediately, in accordance with the following table for each $1,000 of said net sum.

3. By the payment of equal annual installments payable at the beginning of each year for a fixed period of twenty years and for so many years longer as the payee shall survive, in accordance with the following table for each $1,000 of said net sum.

Installments payable under (2) or (3) which shall not have been paid prior to the death of the payee shall be paid, unless other-

wise directed in said notice, to the executors, administrators or assigns of the payee.

If the insured shall not have otherwise directed the beneficiary may after the death of the insured by like written notice and with the written consent of the assignee, if any, select either of the above options.

Unless otherwise specified by the insured the payee may, on any interest date receive the amount yet due under option (1) and may at any time receive the commuted value of payments yet to be made, computed upon the same basis as option (2) in the following table, provided that no such commutation will be made under (3), except after the death of the payee occurring within the aforesaid twenty years.

TABLE OF INSTALLMENTS FOR EACH $1,000.

| (Option 2) | | (Option 3) | |
|---|---|---|---|
| Number of Annual Installments | Amount of Each Installment | Age of Payee When Policy Becomes Payable | Amount of Each Installment |

(Blank lines)

Agents are not authorized to modify this policy or to extend the time for payment of a premium.

In Witness Whereof, the company has caused this policy to be executed this..... day of.....

§ 3. SINGLE PREMIUM POLICIES.] Single premium policies may be issued in any form prescribed in section two, omitting therefrom provisions or portions thereof applicable only to other than single premium policies. Non-participating policies may be issued in any form prescribed in section two if they shall contain a provision that the policy shall be non-participating, and such policies shall omit therefrom clauses for participation in the surplus of the company.

§ 4. TERM INSURANCE.] Policies issued on the standard forms prescribed in section two may provide for not more than one year preliminary term insurance by incorporation therein of the following clause immediately preceding the "change of beneficiary" clause: "The first year's insurance under this policy is term insurance." If the premium charged for term insurance under a limited payment life preliminary term policy providing for the payment of all premiums thereon in less than twenty years from the date of the policy or under an endowment preliminary term policy, exceeds that charged for like insurance under whole life preliminary term policies of the same company, the reserve thereon at the end of any year, including the first, shall not be less than the reserve on the whole life preliminary term policy issued in the same year and at the same age, together with an amount which shall be equivalent to the accumulation of a net level premium sufficient to provide for a pure endowment at the end of the premium-payment period equal to the difference between the value at the end of such period of such a whole

life preliminary term policy and the full reserve at such time of such a limited-payment or endowment policy.

§ 5. PROVISIONS OF LIFE POLICIES.] No policy of life insurance in form other than as provided in section two shall be issued in this state or be issued by a life insurance company organized under the laws of this state unless the same shall contain the following provisions:

1. A provision that all premiums shall be payable in advance either at the home office of the company, or to an agent of the company, upon delivery of a receipt signed by one or more of the officers who shall be named in the policy.

2. A provision for a grace of one month for the payment of every premium after the first, which may be subject to an interest charge during which month the insurance shall continue in force, which provision may contain a stipulation that if the insured shall die during the month of grace the over-due premium will be deducted in any settlement under the policy.

3. A provision that the policy shall constitute the entire contract between the parties and shall be incontestable after two years from its date, except for non-payment of premiums and except for violations of the conditions of the policy relating to naval and military services in time of war.

4. A provision that all statements made by the insured shall, in the absence of fraud be deemed representations and not warranties and that no such statement shall void the policy unless it is contained in a written application and a copy of such application shall be indorsed upon or attached to the policy when issued.

5. A provision that if the age of the insured has been understated the amount payable under the policy shall be such as the premium would have purchased at the correct age.

6. A provision that the policy shall participate in the surplus of the company and that, beginning not later than the end of the third policy year, the company will annually determine and account for the portion of the divisible surplus accruing on the policy, and that the owner of the policy shall have the right each year to have the current dividend arising from such participation paid in cash and if the policy shall provide other dividend options it shall further provide that if the owner of the policy shall not elect any such other options the dividends shall be paid in cash. This provision shall not be required in non-participating policies.

7. A provision that after three full year's premiums have been paid the company at any time while the policy is in force will advance on proper assignment of the policy and on the sole security thereof, at a specified rate of interest, a sum equal to, or at the option of the owner of the policy, less than, the reserve at the end of the current policy year on the policy and on any dividend additions thereto, specifying the mortality table and rate of interest adopted for computing such reserve, less a sum not more than two and one-half per

centum of the amount insured by the policy and of any dividend additions thereto; and that the company will deduct from such loan value any existing indebtedness on the policy and any unpaid balance of the premium for the current policy year, and may collect interest in advance on the loan to the end of the current policy year; which provision may further provide that such loan may be deferred for not exceeding six months after the application thereof is made. It shall be further stipulated in the policy that failure to repay any such advance or to pay interest shall not avoid the policy unless the total indebtedness thereon to the company shall equal or exceed such loan value at the time of such failure nor until one month after notice shall have been mailed by the company to the last known address of the insured and of the assignee, if any. No condition other than as herein provided shall be exacted as a prerequisite to any such advance. This provision shall not be required in term insurances.

8. A provision which, in event of default in premium payments, after premium shall have been paid for three years, shall secure to the owner of the policy a stipulated form of insurance, the net value of which shall be at least equal to the reserve at the date of default on the policy and on any dividend additions thereto, specifying the mortality table and rate of interest adopted for computing such reserves, less a sum of not more than two and one-half per centum of the amount insured by the policy and of any existing dividend additions thereto, and less any existing indebtedness to the company on the policy. Such provision shall stipulate that the policy may be surrendered to the company at its home office within one month from date of default for a specified cash value at least equal to the sum which would otherwise be available for the purchase of insurance as aforesaid and may stipulate that the company may defer payment for not more than six months after the application therefor is made. This provision shall not be required in term insurances of twenty years or less.

9. A table showing in figures the loan values, and the options available under the policies each year upon default in premium payments, during at least the first twenty years of the policy, beginning with the year in which such values and options become available.

10. A provision that if, in event of default in premium payments, the value of the policy shall be applied to the purchase of other insurance, and if such insurance shall be in force and the original policy shall not have been surrendered to the company and canceled, the policy may be reinstated within three years from such default, upon evidence of insurability satisfactory to the company and payment of arrears of premiums with interest.

11. A provision that when a policy shall become a claim by the death of the insured settlement shall be made upon receipt of

due proof of death, or not later than two months after receipt of such proof.

12. A table showing the amounts of installments in which the policy may provide its proceeds may be payable.

13. A title on the face and on the back of the policy correctly describing the same.

Any of the foregoing provisions or portions thereof relating to premiums not applicable to single [premium] policies, shall to that extent not be incorporated therein.

§ 6. PROVISIONS PROHIBITED.] No policy of life insurance in form other than as prescribed in section two shall be issued or delivered in this state or be issued by a life insurance company organized under the laws of this state, if it contain any of the following provisions:

1. A provision for forfeiture of the policy for failure to repay any loan on the policy or to pay interest on such loan while the total indebtedness on the policy is less than the loan value thereof; or any provision for forfeiture for failure to repay any such loan or to pay interest thereon, unless such provision contain a stipulation that no such forfeiture shall occur until at least one month after notice shall have been mailed by the company to the last known address of the insured and of the assignee, if any.

2. A provision limiting the time within which any action at law or inequity may be commenced to less than five years after the cause of action shall accrue.

3. A provision by which the policy shall purport to be issued or to take effect before the original application for the insurance was made, if thereby the assured would rate at an age younger than his age at date when the application was made, according to his age at nearest birthday.

4. A provision for any mode of settlement at maturity of less value than the amount insured on the face of the policy plus dividend additions, if any, less any indebtedness to the company on the policy and less any premium that may by the terms of the policy be deducted.

§ 7. PRELIMINARY TERM POLICIES.] Preliminary term policies not issued on the standard forms shall also be subject to the provisions of section four.

§ 8. FORM FILED WITH INSURANCE COMMISSIONER.] No policy of life insurance shall be issued or delivered in this state, or be issued by a life insurance company organized under the laws of this state, until the form of the same has been filed with the insurance commissioner; and after the insurance commissioner shall have notified any company of his disapproval of any form it shall be unlawful for such company to issue any policy in the form so disapproved. The commissioner's action shall be subject to review by any court of competent jurisdiction.

§ 9. PROVISIONS RESTRICTED.] The policies of a life insurance company, nor organized under the laws of this state, may contain any provision which the law of this state, territory, district or county under which the company is organized, prescribes shall be in such policies when issued in this state, and the policies of a life insurance company organized under the laws of this state may, when issued or delivered in any other state, territory, district or county, contain any provision required by the laws of the state, territory, district or county in which the same are issued, anything in this act to the contrary notwithstanding.

§ 10. WHAT COMPANIES EXEMPT.] This act shall not apply to annuities, industrial policies or to corporations or associations operating on the assessment or fraternal plan.

§ 11. "COMPANY" DEFINED.] Wherever the word "company" is used in this act it shall be held to include corporations and associations.

§ 12. REPEAL.] All laws and parts of laws in conflict herewith are hereby expressly repealed.

Approved March 19, 1907.

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## CHAPTER 141.

[S. B. No. 177—Simpson]

### REPORTS OF LIFE INSURANCE COMPANIES.

AN ACT Relating to the Annual Reports of Life Insurance Companies.

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

§ 1. ANNUAL REPORT, CONTAINS WHAT.] In addition to any other matter which may be required by law or pursuant to law by the commissioner of insurance to be stated therein, every annual report of every life insurance company doing business in this state, shall contain an accurate, concise and complete statement of the following matters, to wit:

1. All the real property held by the company, the dates of acquisition, the names of the vendors, the actual cost, the value at which it is carried on the company's books, the market value, the amounts expended during the year for repairs and improvements, the gross and net income from each parcel, and if any portion thereof be occupied by the company the rental value thereof, a statement of any certificate issued by the commissioner extending the time for the disposition thereof, and all purchases and sales made since the last annual statement, with particulars as to dates, names of vendors and vendees and the consideration.

2. The amount of existing loans upon the security of real property, stating the amount loaned upon property in each state and foreign country.

3. The moneys loaned by the company to any person other than loans upon the security of real property above mentioned and other than loans upon policies the actual borrowers thereof, the maturity and rate of interest of such loans, the securities held therefor, and all substitutions of securities in connection therewith, and the same particulars with reference to any loans made or discharged since the last annual statement.

4. All other property owned by the company or in which it has any interest (including all securities, whether or not recognized by the law as proper investments), the dates of acquisition, from whom acquired, the actual cost, the value at which the property is carried upon the books, the market value, the interest or dividends received thereon during the year; also all purchases and sales of property other than real estate made since the last annual statement with particulars as to dates, names of purchasers and sellers, and the consideration; and also the income received and outlays made in connection with all such property.

5. All commissions paid to any persons in connection with loans or purchases or sales of any property, and a statement of all payments for legal expenses, giving particulars as to dates, amounts and names and addresses of payees.

6. All money expended in connection with any matter pending before any legislative body or any officer or department of government, giving particulars as to dates, amounts, names and addresses of payees, the measure or proceeding in connection with which the payment was made, and the interest of the company therein.

7. The names of officers and directors of the company, the proceedings at the last annual election, giving the names of candidates and the number of votes cast for each, and whether in person, by proxy or by mail.

8. The salary, compensation and emoluments received by officers or directors and where the same amount to more than five thousand dollars, that received by any person, firm or corporation, with particulars as to dates, amounts, payees and the authority by which the payment was made; also all salaries paid to any representative either at the home office, or at any branch office, or agency, for agency supervision.

9. The largest balances carried in each bank or trust company during each month of the year.

10. All death claims resisted or compromised during the year with particulars as to sums insured, sums paid and reasons assigned for resisting or compromising the same in each case.

11. A complete statement of the profits and losses upon the business transacted during the year and the sources of such gains and losses, and a statement showing separately the margins upon

premiums for the first year of insurance and the actual expenses chargeable to the procurement of new business incurred since the last annual statement. A foreign company, issuing both participating and non-participating policies, shall make a separate statement of profits and losses, margins and expenses, as aforesaid, with reference to each of said kinds of business, and also showing the manner in which any general outlays of the company have been apportioned to each of such kinds of business.

12. A statement separately showing the amount of the gains of the company for the year attributable to policies written after December thirty-first, nineteen hundred and.... and the precise method by which the calculation has been made.

13. The rates of annual dividends declared during the year for all plans of insurance and all durations for ages at entry, twenty-five, thirty-five, forty-five and fifty-five, and the precise method by which such dividends have been calculated.

14. A statement showing the rates of dividends declared upon deferred dividend policies completing their dividend periods for all plans of insurance and the precise methods by which said dividends have been calculated.

15. A statement showing any and all amounts set apart or provisionally ascertained or calculated or held awaiting apportionment upon policies with deferred dividend periods longer than one year for all plans of insurance and all durations and for ages of entry as aforesaid, together with the precise statements of the methods of calculation by which the same have been provisionally or otherwise determined.

16. A statement of any and all reserve or surplus funds held by the company and for what purpose they are claimed respectively to be held.

§ 2. REPEAL.] All laws and parts of laws inconsistent with the provisions of this law are hereby expressly repealed.

Approved March 19, 1907.

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## CHAPTER 142.

[S. B. No. 61—Rice.]

### SURPLUS OF LIFE INSURANCE COMPANIES.

AN ACT to Require an Annual Apportionment and Accounting of Surplus of Life Insurance Companies.

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

§ 1. SURPLUS APPORTIONED ANNUALLY.] Every life insurance company doing business in this state conducted on the mutual plan or in which the policy holders are entitled to share in the profits

or surplus, shall make an annual apportionment and accounting of divisible surplus to each policy holder beginning not later than the end of the third policy year on all participating policies hereafter issued; and each such policy holder shall be entitled to and be credited with or paid, in the manner hereinafter provided, such a portion of the entire divisible surplus as has been contributed thereto by his policy.

§ 2. CONTINGENCY RESERVE.] Any life insurance company doing business in this state may accumulate and maintain in addition to the capital and surplus contributed by its stockholders and in addition to an amount equal to the net values of its policies, computed according to the laws of the jurisdiction under which it is organized, a contingency reserve not exceeding the following respective percentages of said net values, to wit: When said net values are less than one hundred thousand dollars, twenty per centum thereof or the sum of ten thousand dollars, whichever is the greater; when said net values are greater than one hundred thousand dollars, the per centage thereof measuring the contingency reserve shall decrease one-half of one per centum for each one hundred thousand dollars of said net values up to one million dollars; one-half of one per centum for each additional one million dollars up to ten million dollars; one-half of one per centum for each additional two million five hundred thousand dollars up to twenty million dollars; one-half of one per centum for each additional five million dollars up to fifty million dollars; one-half of one per centum for each additional twenty-five million dollars up to seventy-five million dollars; and if said net values equal or exceed the last mentioned amount the contingency reserve shall not exceed five per centum thereof; provided, that as the net values of said policies increase and the maximum percentage measuring the contingency reserve decreases such corporation may maintain the contingency reserve already accumulated hereunder, although for the time being it may exceed the maximum percentage herein prescribed, but may not add to the contingency reserve when the addition will bring it beyond the maximum percentage; provided, further, that for cause shown the commissioner of insurance may at any time from time to time permit any corporation to accumulate and maintain a contingency reserve in excess of the limit above mentioned for a prescribed period, not exceeding one year under any one permission, by filing in his office a decision stating his reasons therefor and causing the same to be published in his next annual report. This section shall not apply to any company doing exclusively a non-participating business.

§ 3. RIGHTS OF POLICY HOLDER.] Every policy holder shall on all participating policies hereafter issued be permitted annually to select the manner and method of the application of the surplus to be annually apportioned to his policy from among those set forth in the policy. All apportioned surplus not actually paid

over to the insured, or applied in the reduction of current or future premiums or in the purchase of paid-up insurance or pure endowment additions, shall be credited to the assured and carried as an actual liability and be paid at the maturity of the policy.

§ 4. AUTOMATIC INSURANCE.] In event of default in payment of any premium due on any policy, provided not less than three full years' premiums shall have been paid, there shall be secured to the insured without action on his part, either paid-up or extended insurance as specified in the policy, the net value of which shall be at least equal to the entire net reserve held by the company on such policy less two and one-half per centum of the amount insured by the policy and dividend additions, if any, and less any outstanding indebtedness to the company on the policy at time of default. There shall be secured to the insured the right to surrender the policy to the company at its home office within one month after date of default for the cash value otherwise available for the purchase of the paid-up or extended insurance as aforesaid.

§ 5. CONTRA AGREEMENT FORBIDDEN.] No agreement between the company and the policy holder or applicant for insurance shall be held to waive any of the provisions of this act.

§ 6. REPEAL.] All laws and parts of laws in conflict with the provisions of this law are hereby expressly repealed.

Approved March 19, 1907.

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## CHAPTER 143.

[H. B. No. 98—Midgarden]

### LIABILITIES OF INSURANCE COMPANIES.

AN ACT to Amend Section 4440 of the Revised Codes of North Dakota of 1905, Relating to Premiums and Liabilities of Insurance Companies.

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

§ 1. AMENDMENT.] Section 4440 of the revised codes of North Dakota for 1905 is amended to read as follows:

§ 4440. PREMIUM. CONTINGENT LIABILITY STATED ON POLICY.] Mutual insurance companies shall charge and collect upon their policies the full mutual premium in cash or notes, and may by their by-laws fix the contingent mutual liability of its members for the payment of losses and expenses not provided for by their cash funds; provided, that such contingent liability of a member shall not be less than a sum equal to, and in addition to the cash premium written in his policy; provided, further, that in case said premium be not so paid in cash or unconditional notes within sixty days from the date of issue, the policy shall become and be absolutely

void and to remain void during the non-payment of such premium, and upon payment of the premium as above provided, such policy shall re-attach; provided, there has been no loss while the policy was void. The total amount of the liability of a policy holder shall be clearly and legibly stated upon the back of each policy.

§ 2. REPEAL.] All laws or parts of laws in conflict with this law are hereby expressly repealed.

Approved March 14, 1907.

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## CHAPTER 144.

[S. B. No. 183—Swenson]

### RETIREMENT OF CAPITAL STOCK.

AN ACT Regulating the Retirement of Capital Stock in Certain Cases.

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

§ 1. TEMPORARY CAPITAL MAY BE RETIRED.] A mutual life insurance company may be organized with, and an existing mutual life insurance company may establish a temporary capital of not less than $100,000, which shall be invested in the same manner as is provided for the investment of its other funds. Out of the net surplus of the company the holders of the temporary capital stock may receive a dividend of not more than eight per cent per annum, which may be cumulative. Such capital stock shall not be a liability of the company except that it shall be retired as soon as, but not before the surplus of the company remaining after its retirement shall not be less than the temporary capital so established. At the time for the retirement of such capital stock the holders shall be entitled to receive from the company the par value thereof and any dividends thereon due and unpaid, and thereupon the stock shall be surrendered and canceled, and the right to vote thereon shall cease.

§ 2. REPEAL.] All laws and parts of laws inconsistent with the provisions of this law are hereby expressly repealed.

Approved March 8, 1907.

## CHAPTER 145.

[S. B. No. 174—Sifton]

### NON-PARTICIPATING LIFE POLICIES PROHIBITED.

AN ACT to Prohibit the Issuance of Non-Participating Policies by Certain Life Insurance Companies.

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

§ 1. PROHIBITED.] On and after the first day of January, A. D. 1908, no domestic mutual life insurance company and no domestic stock life insurance company, hereafter issuing or professing to issue any participating policies, shall issue any policies, except annuities, which do not by their terms give to the holders thereof full right to participate in the accumulations of said company, as provided by law. This act shall not apply to paid-up or temporary and pure endowment insurance issued or granted in exchange for lapsed or surrendered policies.

§ 2. REPEAL.] All laws or parts of laws inconsistent with the provisions of this law are hereby expressly repealed.

Approved March 8, 1907.

## CHAPTER 146.

[S. B. No. 175—Sifton]

### LIFE INSURANCE AGENTS DEFINED.

AN ACT Defining the Status of Persons Soliciting Life Insurance.

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

§ 1. AGENT DEFINED.] Any person who shall solicit an application for insurance upon the life of another shall, in any controversy between the assured or his beneficiary and the company issuing any policy upon such application, be regarded as the agent of the company and not the agent of the assured.

§ 2. REPEAL.] All laws or parts of laws inconsistent with the provisions of this law are hereby expressly repealed.

Approved March 8, 1907.

## CHAPTER 147.

[S. B. No. 176—Sifton.]

### LIFE INSURANCE MISREPRESENTATION PROHIBITED.

AN ACT to Prohibit Misrepresentations by Life Insurance Companies.

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

§ 1. PROHIBITED.] No life insurance company doing business in this state and no officer, director or agent thereof, shall issue or circulate, or cause or permit to be issued or circulated, any estimate, illustration, circular or statement of any sort misrepresenting the terms of any policy issued by it or the benefits or advantages promised thereby, or the dividends or shares of surplus to be received thereon, or shall use any name or title of any policy or class of policies misrepresenting the true nature thereof.

§ 2. PENALTY.] Any officer, agent, solicitor or any representative of any life insurance company violating the provisions of this act, shall be deemed guilty of a misdemeanor. Any life insurance company found guilty of a violation of the provisions of this act by the commissioner of insurance upon a hearing, after fifteen days' notice, shall be subject to a penalty to be by such commissioner of insurance imposed, of not to exceed $500, in default of the payment of which he is authorized to revoke the license of such company; and provided, that upon a second conviction upon a similar hearing the commissioner of insurance shall revoke the license of such company to transact business in the state.

§ 3. REPEAL.] All laws and parts of laws inconsistent with the provisions of this law are hereby expressly repealed.

Approved March 8, 1907.

## CHAPTER 148.

[S. B. No. 179—Simpson]

### LIFE INSURANCE DISCRIMINATION PROHIBITED.

AN ACT to Prohibit Discrimination by Life Insurance Companies and Providing Penalties for Violation Thereof.

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

§ 1. PROHIBITED.] No life insurance company doing business in this state shall make or permit any distinction or discrimination in favor of individuals between insurants (the insured) of the

same class and equal expectation of life in the amount or payment of premiums or rates charged for policies of life or endowment insurance, or in the dividends or other benefits payable thereon, or in any other of the terms or conditions of the contracts it makes, nor shall any such company or agent thereof make any contract of insurance or agreement as to such contract other than as plainly expressed in the policy issued thereon, nor shall any such company or any officer, agent, solicitor or representative thereof, pay, allow or give, or offer to pay, allow or give, directly or indirectly as inducement to insurance, any rebate of premium payable on their policy, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any paid employment or contract for services of any kind or any valuable consideration or inducement whatever not specified in the policy contract of insurance, or give, sell or purchase, or offer to give, sell or purchase as inducement to insurance or connection therewith any stocks, bonds or other securities of any insurance company or other corporation, association or partnership, or any dividends or profits to accrue thereon or anything of value whatsoever not specified in the policy.

§ 2. PENALTY.] Any officer, agent, solicitor or any representative of any life insurance company violating the provisions of this act shall be deemed guilty of a misdemeanor. Any life insurance company found guilty of a violation of the provisions of this act by the commissioner of insurance upon a hearing, after fifteen days' notice, shall be subject to a penalty to be by such commissioner of insurance imposed, of not to exceed $500, in default of the payment of which he is authorized to revoke the license of such company; and provided, that upon a second conviction upon a similar hearing the commissioner of insurance shall revoke the license of such company to transact business in the state.

§ 3. REPEAL.] All laws and parts of laws inconsistent with the provisions of this law are hereby expressly repealed.

Approved March 8, 1907.

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## CHAPTER 149.

[S. B. No. 192—Little]

### LIFE INSURANCE DISBURSEMENTS.

AN ACT Regulating Disbursements by Life Insurance Companies.

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

§ 1. VOUCHER REQUIRED.] No domestic life insurance company shall make any disbursements of one hundred dollars or more unless the same be evidenced by a voucher signed by or in

behalf of the person, firm or corporation receiving the money and correctly describing the consideration for the payment. If the expenditure be for both services and disbursements the voucher shall set forth the services rendered and an itemized statement of the disbursements made. If the expenditure be in connection with any matter pending before any legislative or public body, or before any department or officer of any state or government, the voucher shall correctly describe, in addition, the nature of the matter and of the interest of such company therein. When such voucher cannot be obtained the expenditure shall be evidenced by an affidavit describing the character and object of the expenditure and stating the reason for not obtaining such voucher.

§ 2. REPEAL.] All laws and parts of laws inconsistent with the provisions of this law are hereby expressly repealed.

Approved March 8, 1907.

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## CHAPTER 150.

[S. B. No. 42—Spoonheim]

### CONSOLIDATION OF INSURANCE COMPANIES.

AN ACT to Regulate the Consolidation and Reinsurance of Domestic Insurance Companies Transacting Business of Life, Accident or Health Insurance.

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

§ 1. CONSOLIDATION FORBIDDEN.] No company organized under the laws of this state to do business of life, accident or health insurance, either on the stock, mutual, stipulated premium, assessment or fraternal plan, shall consolidate with any other company, or reinsure its risks, or any part thereof with any other company, or assume or reinsure the whole of or any portion of the risks of any other company, except as hereinafter provided, but nothing herein contained shall prevent any such company, organized on the stock or mutual plan, from reinsuring a fractional part of any risk.

§ 2. PETITION FOR CONSOLIDATION.] When any such company shall propose to consolidate with any other company, or to enter into any contract of reinsurance, it shall present its petition to the insurance commissioner of this state, setting forth the terms and conditions of such proposed consolidation or reinsurance, and asking for the approval or of any modification thereof, which the commission hereinafter provided for may approve.

§ 3. DUTY OF INSURANCE COMMISSIONER.] The insurance commissioner thereupon shall issue an order of notice requiring notice to be given by mail to each policyholder of such company, of the

pending of such petition, and the time and place at which hearing thereon will be held, and shall publish the said order of notice and said petition in five newspapers for at least two weeks before the time appointed for the hearing upon said petition, and in one daily newspaper published at the capital of the state.

§ 4. COMMISSION.] The governor, or in the event of his inability to act, some competent person resident of the state to be appointed by him, the attorney general and the insurance commissioner of this state, shall constitute a commission to hear and determine upon said petition. At the time and place fixed in said notice or at such time and place as shall be fixed by adjournment, the said commission shall proceed with the hearing and may make or order such examination into the affairs and condition of such company as it may deem proper. The insurance commissioner shall have the power to summon and compel the attendance and testimony of witnesses and production of books and papers before said commission. Any policyholder or stockholder of the company or companies so petitioning may appear before said commission and be heard in reference to said consolidation or reinsurance. Said commission if satisfied that the interests of the policyholders of such company or companies are properly protected, and that no reasonable objection exists thereto, may approve and authorize the proposed consolidation or reinsurance or may modify or change the terms and conditions thereof as may seem best for the interests of the policyholders, and said commission may make such order with reference to the distribution and disposition of the surplus assets of any such company thereafter remaining as shall be just and equitable to the policyholders. Such consolidation or reinsurance shall only be approved by the consent of all the members of such commission, and it shall be the duty of said commission to guard the interests of the policyholders of any such company or companies proposing to consolidate or reinsure.

§ 5. EXPENSES PAID.] All actual expenses and costs incident to proceedings under the provisions of this act shall be paid by the company or companies bringing said petition, and an itemized statement of the expenses and costs shall be filed with the insurance commissioner with a certified copy of the decision of the commission. No officer of any such company or companies, nor members of said commission, or employee of the state, shall receive any compensation, gratuity or otherwise, directly or indirectly, for in any manner aiding, promoting or assisting in such consolidation or reinsurance.

§ 6. PENALTY FOR VIOLATION.] Any officer, director or stockholder of any such company or companies, or any member of such commission or employee of the state, violating or consenting to the violation of the provisions of this act shall be punished by a fine not less than five thousand dollars or imprisonment in the county jail for not less than one year, or both such fine and imprisonment in the discretion of the court.

Approved March 8, 1907.

# CHAPTER 151.

[S. B. No. 59—Rice]

## ANNUAL APPORTIONMENT OF INSURANCE SURPLUS.

AN ACT to Require an Annual Apportionment and Accounting of Surplus of Life Insurance Companies as to Policies Heretofore Issued.

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

§ 1. SURPLUS APPORTIONED ANNUALLY. NOTICE REQUIRED.] Every life insurance company doing business in this state conducted on the mutual plan or in which policyholders are entitled to share in the profits or surplus shall, on all policies of life insurance heretofore issued, under the conditions of which the distribution of surplus is deferred to a fixed or specified time and contingent upon the policy being in force and the insured living at that time, annually ascertain the amount of surplus to which all such policies as a separate class are entitled, and shall apportion to such policies as a class the amount of surplus so ascertained, and carry the amount of such apportioned surplus, plus the actual interest earnings and accretions of such fund, as a distinct and separate liability to such class of policies on and for which the same was accumulated, and no company or any of its officers shall be permitted to use any part of such apportioned surplus fund for any purpose whatsoever other than for the express purpose for which the same was accumulated. Every company having in force any such deferred dividend policies, shall also at the time of the mailing of the annual premium notice, show the contingent surplus accumulated to the credit of the policy at the beginning of the preceding year, the rate of interest earned on the accumulation, the amount of interest and the amount of saving and profit contingently credited to said policy during the preceding year, with a showing of the total amount of surplus accumulation then contingently credited to the policy, which statement shall be made in accordance with the following form:

"STATEMENT OF ANNUAL APPORTIONMENT OF SURPLUS.

"Policy number..... Distribution period.....years. Age at issue..... Surplus accumulation contingently credited to policy as per last annual statement..... $.....Interest credit: Net rate earned by company.....per cent.....
Savings and profit additionals for year.....
Contingent surplus credit .....19.... $.....
.....
Secretary."

§ 2. EXCEPTION.] This act shall not apply to industrial policies.

§ 3. REPEAL.] All laws and parts of laws inconsistent with the provisions of this law are hereby expressly repealed.

Approved March 8, 1907.

## CHAPTER 152.

[S. B. No. 52—Simpson]

### REGULATING LIFE INSURANCE COMPANIES.

AN ACT Regulating Life Insurance Companies and Prohibiting the Diversion of Funds for Political Purposes.

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

§ 1. UNLAWFUL TO AID POLITICAL PARTIES. PENALTY.] No insurance company or association, including fraternal beneficiary associations, doing business in this state, shall, directly or indirectly, pay or use or offer, consent or agree to pay or use any money or property for or in aid of any political party, committee or organization, or for or in aid of any corporation, joint stock or other associations, organized or maintained for political purposes, or for or in aid of any candidate for political office, or for nomination for such office, or for any political purpose whatsoever, or for the reimbursement or indemnification of any person for money or property so used. Any officer, director, stockholder, attorney or agent of any corporation or association which violates any of the provisions of this act, who participates in, aids, abets, or advises or consents to any such violation, and any person who solicits or knowingly receives any money or property in violation of this act, shall be guilty of a misdemeanor and be punished by imprisonment for not more than one year and a fine of not more than one thousand dollars, and any officer aiding or abetting in any contribution made in violation of this act, shall be liable to the company or association for the amount so contributed. No person shall be excused from attending and testifying or producing any books, papers or other documents before any court or magistrate, upon any investigation, proceeding or trial for a violation of any of the provisions of this act, upon the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him, may tend to incriminate or degrade him; but no person shall be prosecuted or subject to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may so testify or produce evidence, documentary or otherwise, and no testimony so given or produced shall be used against him upon any criminal investigation or proceeding.

§ 2. REPEAL.] All laws and parts of laws inconsistent with the provisions of this law are hereby expressly repealed.

Approved March 19, 1907.

## CHAPTER 153.

[S. B. No. 73—Sharpe]

### MUTUAL HAIL INSURANCE.

AN ACT to Amend Section 4449 of the Revised Codes of 1905, Relating to Mutual Insurance Companies Engaged in Hail Insurance.

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

§ 1. AMENDMENT.] Section 4449 of the revised codes of 1905 is amended and re-enacted to read as follows:

§ 4449. MUTAL INSURANCE COMPANIES ENGAGE IN HAIL INSURANCE, WHEN.] No mutual insurance company hereafter organized under the laws of this state or now or hereafter organized under the laws of any state or country, shall engage in the business of hail insurance in this state without first depositing and thereafter keeping on deposit with the treasurer of this state, the sum of twenty-five thousand dollars in money, or in lieu thereof bonds of this state or of the United States, of the par value of twenty-five thousand dollars; provided, that domestic mutual hail insurance companies in lieu of said deposit shall be required to file a bond in the office of the commissioner of insurance in the sum of twenty-five thousand dollars, conditional for the carrying out of its contracts and obligations incurred by its policies; said bond to be satisfactory as to form and surety to the insurance commissioner.

Approved March 14, 1907.

## CHAPTER 154.

[S. B. No. 173—Simpson]

### REGULATING SALARIES OF OFFICERS OF LIFE INSURANCE COMPANIES.

AN ACT Relating to the Salaries of Officers and Agents of Life Insurance Companies.

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

§ 1. EXPENSES OF OFFICERS, HOW REGULATED.] No domestic life insurance company shall pay any salary, compensation or emolument to any officer, trustee or director thereof, nor any salary, compensation or emolument amounting in any one year to more than five thousand dollars to any one person, firm or corporation unless

such payment be first authorized by a vote of the board of directors of such life insurance company. No such life insurance company shall make any agreement with any of its officers, trustees or salaried employes whereby it agrees that for services rendered or to be rendered he shall receive any salary, compensation or emolument that will extend beyond a period of twelve months from the date of such agreement; and no officer, director or trustee, who is paid a salary for his services of more than one hundred dollars per month, shall receive any other compensation or emolument; provided, that the limitation as to time contained herein shall not be construed as preventing a life insurance company from entering into contracts with its agents for the payment of renewal commissions. No such company shall grant any pension to any officer, director or trustee thereof or to any member of his family after his death.

§ 2. SALARY RESTRICTED.] No life insurance company which pays as a salary or as compensation for services more than fifty thousand dollars per annum to any one person shall be licensed to transact business in this state.

§ 3. REPEAL.] All laws or parts of laws inconsistent with the provisions of this law are hereby expressly repealed.

Approved March 19, 1907.

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## CHAPTER 155.

[S. B. No. 53—Simpson]

### PROVISIONS OF LIFE INSURANCE POLICIES.

AN ACT Relating to the Provisions of Life Insurance Policies.

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

§ 1. POLICY MUST CONTAIN ENTIRE CONTRACT.] Every policy of life insurance issued or delivered within this state on or after the first day of January, nineteen hundred and eight, by any life insurance corporation doing business within the state shall contain the entire contract between the parties.

§ 2. REPEAL.] All laws or parts of laws inconsistent with the provisions of this law are hereby expressly repealed.

Approved March 19, 1907.

# CHAPTER 156.

[S. B. No. 171—Little]

## INVESTMENT OF FUNDS OF LIFE INSURANCE COMPANIES.

AN ACT to Regulate the Investment of the Funds and the Real Estate Holdings of Life Insurance Companies.

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

§ 1. INVESTMENT OF FUNDS RESTRICTED.] No domestic life insurance company, whether incorporated by special act or under a general law, shall, after the first day of January, 1908, invest in or loan upon any shares of stock of any corporation, other than a municipal corporation; nor, excepting government, state or municipal securities, shall it invest in, or loan upon, any bonds or obligations not secured by adequate collateral security, and when more than one-third of the total value of the collateral security shall consist of shares of stock it shall be deemed inadequate. Every such company possessed of stocks or securities prohibited by this act shall dispose of the same within five years, unless such time is extended by the commissioner of insurance. No investment or loan, except policy loans, shall be made by any such life insurance company unless the same shall first have been authorized by the board of directors or by a committee thereof charged with the duty of supervising such investment or loan. No such company shall subscribe to or participate in any underwriting of the purchase or sale of securities or property, or enter into any transaction for such purchase or sale on account of said company jointly with any other person, firm or corporation; nor shall any such company enter into any agreement to withhold from sale any of its property, but the disposition of its property shall be at all times within the control of its board of directors. Any such company, in addition to other investments allowed by law, may invest any of its funds and accumulations in the bonds of the United States or of this state or of any county, city, town or village or duly organized school district therein, or of any municipality or civil division of any state, and may loan upon improved unincumbered real property in any state fifty per centum of the value of such property, or invest in the mortgage bonds of any dividend paying railway or street railway company duly incorporated and organized under the authority of this state or any other state, and it may also make loans on the security of promissory notes amply secured by pledge of any bonds in which such insurance companies are hereby authorized to invest their funds, and may also make loans upon the security of its own policies, but no loan on any policy shall exceed the reserve value thereof.

§ 2. HOLDING OF REAL PROPERTY LIMITED.] Every such life insurance company may acquire, hold and convey real property only for the following purposes and in the following manner:

First. Such as shall be requisite for the convenient accommodation in the transaction of its business.

Second. Such as shall have been mortgaged to it in good faith by way of security for loans previously contracted or for moneys due.

Third. Such as shall have been conveyed to it in satisfaction of debts previously contracted in the course of its dealings.

Fourth. Such as shall have been purchased at sales on judgments, decrees or mortgages obtained or made for such debts.

All such property specified in subdivisions two, three and four of this section which shall not be necessary for its accommodation in the convenient transaction of its business, shall be sold and disposed of within two years after the company shall have acquired title to the same, or within two years after same shall have ceased to be necessary for the accommodation of its business; and it shall not hold such property for a longer period unless it shall procure a certificate from the commissioner of insurance that its interests will suffer materially by the forced sale thereof, in which event the time for the sale may be extended to such time as the commissioner shall direct in such certificate.

§ 3. REPEAL.] All laws or parts of laws inconsistent with the provisions of this law are hereby expressly repealed.

Approved March 20, 1907.

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## CHAPTER 157.

[S. B. No. 254—Sifton]

### ACCIDENT CORPORATIONS.

AN ACT Regulating the Organization and Operation of Corporations, Associations and Societies to Do and Transact Upon the Assessment Plan the Business of Accident or Sickness, or Accident and Sickness Insurance, and Providing for the Regulation and Control of the Same, and to Regulate and Control Such Corporations, Associations and Societies Organized in Other States, Territories and Countries and Doing Business in This State, Prescribing the Duties of the Insurance Commissioner of the State in Relation Thereto, and Fixing the Penalty for the Violation of its Provisions.

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

§ 1. NUMBER REQUISITE TO ORGANIZATION.] Any number of persons, not less than five, a majority of whom are citizens of this

state, may associate themselves together as a corporation, association or society for the purpose of transacting the business of accident or sickness, or accident and sickness insurance upon the assessment plan.

§ 2. COMPLIANCE REQUIRED.] Every corporation, association or society organized under this act shall, before commencing business, comply with the provisions of this act.

§ 3. ARTICLES, STATE WHAT.] The articles of incorporation of such organizations shall state the name or title by which the corporation, association or society shall be known in law, the location of its principal office (which office must be located in this state) with its plan of doing business clearly and fully defined, the number of its directors, trustees or managers, and shall be submitted to the insurance commissioner and attorney general, and if said articles of incorporation are found to comply with the provisions of this act they shall approve the same. When said articles of incorporation are thus approved they shall be recorded in the office of the recorder of deeds in the county where such organization is located, and of the secretary of state, and a notice published as provided for under the general incorporation laws of the state of North Dakota; provided, that corporations, associations and societies heretofore incorporated and doing business in this state shall not be required to re-incorporate. But any corporation, association or society may become a corporation under this act and avail itself of the provisions herein by filing with the insurance commissioner a certificate signed by the president and secretary of such corporation, association or society, setting forth the facts as to its incorporation, and that it desires to avail itself of the provisions of this act and will be controlled thereby and transact its business thereunder; provided, this act shall not relieve any corporation, association or society now doing business in this state from the fulfillment of any contract heretofore entered into with its members under its policies or certificates of membership, nor shall any member be relieved thereby from his or her part of the contract.

§ 4. NAME FORBIDDEN.] No corporation, association or society organized under this act shall take any name or title in use by any other corporation, association or society, or so closely resembling such name as to deceive the public as to its identity.

§ 5. APPLICATION CONTAINS WHAT.] Each corporation, association or society organized under this act shall, before issuing any policy or certificate of membership, if said corporation, association or society has not membership sufficient to pay the full amount of the certificate or policy on an assessment, cause the application for insurance to have printed in red ink in a conspicuous manner along the margin of said application the words "It is understood and agreed that the amount to be paid, when the certificate or policy issued upon this application becomes a claim, shall be

dependent upon the amount collected for an assessment made to meet such claim," and they must have actual applications upon at least two hundred and fifty persons for accident indemnity, or accident and sick benefits in such corporation, association or society as the case may be, and shall file with the insurance commissioner satisfactory proof that the president, secretary and treasurer of said association or society will faithfully discharge their duties as such officers and fully comply with this act in the organization and carrying on the business of such corporation, association or society. A list of said applications giving the name, age and residence of the applicant, together with the annual dues and the proposed assessments thereon shall be filed with the insurance commissioner, with a sworn statement of such officers and that such parties have deposited with them one advance assessment on the insurance applied for, and a certificate of a solvent bank that such funds are deposited therein to be turned over to the treasurer of the corporation, association or society after certificate of authority is issued by the insurance commissioner as provided herein.

§ 6. AGENT MUST HAVE CERTIFICATE OF AUTHORITY.] No person shall act within this state as agent in receiving or procuring applications for accident insurance or accident and sick benefit insurance for any corporation, association or society organized under this act (except for the purpose of taking applications for organization), unless this corporation, association or society for which he is acting has received a certificate from the insurance commissioner as provided in this act, authorizing said corporation, association or society to transact business in this state, nor as general or traveling agent or solicitor, until he shall have received from the insurance commissioner a certificate in substance the same as that provided for in section 12 of this act.

§ 7. BY-LAWS.] The by-laws of such corporation, association or society shall state the object or objects for which the money to be collected is intended.

§ 8. AGE OF MEMBERS.] No corporation, association or society organized or operating under this act shall issue any certificate of membership or policy of insurance to any person under the age of fifteen years, nor over the age of sixty-five years. Any member of any corporation, association or society holding a policy or certificate of membership, naming a beneficiary, operating under this act shall have the right at any time with the consent of such corporation, association or society to designate a new and different beneficiary without requiring the consent of such beneficiary.

§ 9. ANNUAL REPORT.] The business year of such corporation, association or society organized or operating under this act shall close on the 31st day of December of each year, and such corporation, association or society shall, within sixty days thereafter, prepare under oath of its president and secretary, and file

in the office of the insurance commissioner a detailed statement of its assets, liabilities, receipts from assessments and all other sources, expenditures, salaries of officers, number of contributing members, losses paid for indemnity and benefits, the amount paid on each death loss and answer such other interrogatories as the insurance commissioner (who shall furnish blanks for the purpose) may require, in order to ascertain its true financial condition, and shall pay upon filing each annual statement the sum of ten dollars. The insurance commissioner shall publish said annual statement in detail in his annual report and for the purpose of verifying such statement the insurance commissioner may make, or cause to be made, an examination of the affairs of any corporation, association or society doing business under this act at the expense of the corporation, association or society, which expense shall not exceed the necessary hotel and traveling expenses of the auditor or clerk. If the insurance commissioner appoints some person not employed in his office to make the examination he shall in addition to actual expenses, be allowed not to exceed five dollars per day for the time actually employed. If the said insurance commissioner shall deem it necessary for the security of the funds of the association, he may require the official bonds of the officers to be increased to an amount not to exceed double the sum for which they are accountable, and he may require supplemental reports from any such corporation, association or society at such time and in such form as he may direct.

§ 10. RESERVE FUND.] Any North Dakota corporation, association or society organized and doing business under this act may create and maintain and disburse a reserve or surplus fund, and may invest such funds in interest bearing securities.

§ 11. DUTY OF INSURANCE COMMISSIONER.] When any North Dakota corporation, association or society operating under this act shall fail to make its annual statement to the insurance commissioner on or before the first day of March, or is conducting its business fraudulently and not in compliance with this act, then it shall be the duty of the insurance commissioner to promptly communicate the facts to the attorney general who shall at once commence action in the district court of the county in which said organization is located, or before any judge thereof, citing the officers to appear before said court or judge, and if upon a hearing of said cause it is found to be for the best interests of the holders of certificates of membership or policies in said corporation, association or society, said court or judge shall have the power to remove any officer or officers of said corporation, association or society and appoint others in their place until the next annual election. If it is found to be for the best interest of said certificate or policy holder that the affairs of said corporation, association or society be wound up, said court or judge shall so direct, and for that purpose may appoint a receiver, who shall regard all

proper claims for benefits under said certificates as preferred claims. No action or proceeding shall be instituted with a view of the appointment of a receiver or closing up of the business of any such corporation, association or society by any other person, or in any other manner except as herein provided.

§ 12. COMPANY'S CERTIFICATE OF AUTHORITY.] On compliance with this act by any corporation, association or society the insurance commissioner shall issue a certificate that it has fully complied with the provisions of this act, and is authorized to transact business for a period of one year from April 1st of the year of its issue.

§ 13. VOTING PROXY.] At any regularly constituted meeting of the policy holders or certificate holders of any corporation, association or society doing business under this act, each policy holder or certificate holder shall be entitled to at least one vote, and any such person may in writing authorize any other person entitled to vote at such meeting to vote for him.

§ 14. LIMIT TIME OF SUIT.] Any corporation, association or society organized or operating under this act may limit the time within which suit may be brought against it on any claim based upon its policies or certificates of membership, and after the expiration of the time thus limited shall not be liable thereon; provided, such limitation shall be incorporated in and form a part of the contract between the company, association or society, and the assured or its members; and provided, further, that such limitation shall not be limited to a period of less than one year from the time such right of action accrues.

§ 15. RECIPROCAL PENALTIES.] Whenever the existing or future laws of any other state of the United States, territory or province of any other country, or the rules and regulations of the insurance department of any such state, territory or province shall require of corporations, associations or societies organized and doing business under this act, any payment of taxes, fines, penalties, certificates of authority, licenses, fees, or require any other duties, examinations or acts other than are by the laws of this state required of such mutual corporation, association or society organized under the laws of such other state, territory or province, then the insurance commissioner shall immediately require from every such insurance corporation, association or society of such other state, territory or province transacting or seeking to transact business in this state, the like payment of all licenses, fees, taxes, fines or penalties, and the like doing of all acts which by the laws or the rules of the insurance department of such other state, territory or province, require in excess of the licenses, fees, taxes, statements, fines, penalties, acts, examinations or duties required by the laws of this state of the mutual companies of such other states, transacting business in this state.

§ 16. FOREIGN CORPORATIONS, LICENSED WHEN.] When any corporation, association or society not organized in this state and

doing business of accident or sickness, or accident and sickness insurance shall comply with the requirements of this act applicable to it and shall satisfy the insurance commissioner that it is in a solvent condition and able to meet its obligations at maturity, he shall issue to such foreign corporation, association or society a certificate stating that such corporation, association or society has complied with the laws of this state and authorizing said corporation, association or society to do and transact such business in this state subject to the provisions of this act.

§ 17. REPEAL.] All acts or parts of acts repugnant to or in conflict herewith are hereby repealed.

§ 18. EMERGENCY.] Whereas, an emergency exists, this law shall take effect and be in force from and after its passage and publication according to law.

Approved March 19, 1907.

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## CHAPTER 158.

[S. B. No. 189—Simpson]

### VALUED POLICY ACT.

AN ACT Providing That the Amount of Insurance Written Upon Real Property Shall Be Taken Conclusively to be the True Value Thereof.

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

§ 1. FACE OF POLICY TO BE PAID IN CASE OF LOSS.] Whenever any policy of insurance shall be written to insure any real property in this state against loss by fire and that property insured shall be destroyed without fraud on the part of the insured or his assigns, the stated amount of the insurance written in such policy shall be taken conclusively to be the true value of the property insured.

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

§ 3. EMERGENCY.] An emergency exists in this, that there is now no law covering above subject, therefore this act shall take effect from and after its passage and approval.

Received by the governor March 8, 1907.

Filed in the office of the secretary of state March 23, 1907.

Became a law without executive approval.

# JUDICIAL DISTRICTS

## CHAPTER 159.

[S. B. No. 290—Simpson]

### TERMS OF JUDGES OF DISTRICT COURTS.

AN ACT to Amend and Re-Enact Section 468 of the Revised Codes of North Dakota for the Year A. D. 1905, Relating to Judicial Districts Within the State.

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

§ 1. AMENDMENT.] Section 468 of the revised codes of 1905, relating to judicial districts is amended and re-enacted so as to read as follows:

§ 468. JUDICIAL DISTRICTS.] The state is divided into ten judicial districts, and terms of court shall be held in each district as provided in this article. There shall be elected in each judicial district a judge of the district court, whose term of office shall be four years from the first Monday in January next succeeding his election and until his successor is elected and qualified.

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

Approved March 23, 1907.

## CHAPTER 160.

[H. B. No. 152—Shirley]

### TERMS OF COURT, FIRST DISTRICT.

AN ACT to Amend Section 469 of the Revised Codes of North Dakota of 1905, Relating to the Boundaries and Terms of Court in the First Judicial District.

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

§ 1. AMENDMENT.] Section 469 of the revised codes of North Dakota of 1905 is amended to read as follows:

§ 469. BOUNDARIES AND TERMS OF COURT.] The first judicial district consists of the counties of Grand Forks and Nelson, and terms of the district court shall be held each year at the county seat of each of said counties as follows:

In Grand Forks county, commencing on the first Tuesday in each month, excepting the months of August and September; but a jury shall not be called for any term unless, in the opinion of the judge, there is sufficient business to demand a jury; provided, that a jury shall be called for at least two terms of said court each year.

In Nelson county, commencing on the first Monday after the fourth day of July and the first Monday after the first day of January.

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

Approved March 13, 1907.

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## CHAPTER 161.

[S. B. No. 58—Rice]

### CREATING NINTH JUDICIAL DISTRICT.

AN ACT Defining the Boundaries of the Second, Eighth and Ninth Judicial Districts of the State of North Dakota and Providing for Terms of Court in Said Districts.

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

§ 1. BOUNDARIES OF JUDICIAL DISTRICTS.] District No. 2 shall consist of the counties of Benson, Ramsey, Rolette and Towner.

District No. 8 shall consist of the counties of Ward and Williams.

District No. 9 shall consist of the counties of Bottineau, McHenry and Pierce.

§ 2. ACTIONS AND JUDGMENTS.] All actions brought and now pending in the counties of Bottineau, McHenry and Pierce shall be continued in and tried in the Ninth judicial district. The court on its own motion shall direct and authorize said actions to be entitled in the Ninth judicial district, and any judgments rendered thereon shall be in full force and effect in said district.

§ 3. TERMS OF COURT.] The terms of the district court for the Second and Eighth judicial districts shall remain as now fixed.

The terms of the district court in the Ninth judicial district shall be held at the county seat of each county in said district as follows:

In the county of Bottineau, on the second Monday in February, the fourth Monday in April, the third Monday in June, the third Monday in September and the third Monday in November of each year; provided, that no jury terms shall be called for the terms of court opening on the fourth Monday in April, the third Monday in June

and the third Monday in September, except in the discretion of the district judge.

In the county of McHenry, on the second Monday in March, the second Monday in May, the second Monday in July, the first Monday in October and the third Monday in December of each year; provided, that no jury shall be called for the terms of court beginning the second Monday in May, the second Monday in July and the first Monday in October, except in the discretion of the district judge.

In the county of Pierce, on the third Monday in January, the first Monday in April, the first Monday in June, the first Monday in September and the third Monday in October of each year; provided, that no jury shall be called for the terms of court beginning the first Monday in April, the first Monday in June and the first Monday in September, except in the discretion of the district judge.

Any terms of court now called by the presiding judges of the Second and Eighth judicial districts shall be duly held, unless continued by the judge of the Ninth judicial district for cause.

§ 4. JUDGE, WHEN CHOSEN.] There shall be chosen a judge of the district court for the Ninth judicial district at the general election to be held in November, 1908, and thereafter as provided by law.

§ 5. OLD BOUNDARIES REMAIN UNTIL NEW JUDGE QUALIFIES.] Until the election and qualification of the judge of the Ninth judicial district as herein provided for, all of the territory comprehended in said Ninth judicial district shall be and remain a part of the judicial district to which it belongs under existing laws.

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

§ 7. EMERGENCY.] An emergency exists in this, that the population and judicial business in the Second and Eighth judicial districts of this state have grown so large that the judges of said districts cannot give proper attention thereto, therefore this act shall take effect from and after its passage and approval.

Approved March 23, 1907.

# CHAPTER 162.

[S. B. No. 292—Simpson]

## TENTH JUDICIAL DISTRICT DEFINED.

AN ACT Creating and Defining the Tenth Judicial District Within the State of North Dakota, Providing for the Election of a Judge Therein and Fixing the Terms of Court in Said District.

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

§ 1. BOUNDARIES AND TERMS OF COURT.] The tenth judicial district consists of the counties of Morton, Stark, Oliver, Mercer, Billings, McKenzie, Dunn, Hettinger and Bowman and all unorganized territory within the said district and all that portion of the Sioux Indian reservation lying north of the seventh standard parallel, and is divided into judicial subdivisions as follows:

1. The first subdivision consists of the county of Morton and all that portion of the Sioux Indian reservation lying north of the seventh standard parallel and south of Morton, and two terms of the district court shall be held each year at the county seat thereof, commencing on the first Tuesday in May and the second Tuesday in November.

2. The second subdivision consists of the counties of Stark, Dunn, Hettinger, Bowman and all that portion of the Sioux Indian reservation lying south of Hettinger county and north of the seventh standard parallel, and all unorganized territory within the said district, and two terms of the district court shall be held each year at the county seat of Stark county, commencing on the first Tuesday in April and the second Tuesday in September.

3. The third subdivision consists of the county of Oliver, and two terms of the district court shall be held therein each year at the county seat thereof at such times as the judge of said court shall direct.

4. The fourth subdivision consists of the county of Mercer and two terms of the district court shall be held each year at the county seat thereof, commencing on the first Monday in June and the second Monday in December.

5. The fifth subdivision consists of the county of Billings, and two terms of the district court shall be held therein each year at the county seat thereof, commencing on the third Tuesday in April and the first Tuesday in October.

6. The sixth subdivision shall consist of the county of McKenzie, and two terms of court shall be held therein each year, as may be fixed by the judge of the tenth judicial district.

§ 2. JUDGE, HOW CHOSEN.] There shall be chosen a judge of the district court for the tenth judicial district at the general elec-

tion to be held in November, 1908, and thereafter as provided by law.

§ 3. CHAMBERS, TIME OF PRESCRIBED.] The court of the tenth judicial district shall, excepting such times as the court shall be actually engaged in the holding of a term of court in any of the counties of said district, have its chambers for the purpose of hearing and transacting such business as may come before it in the counties of Morton and Stark respectively, in each year at the county seats of such counties as follows:

In the county of Morton on the first Monday in the months of January, March, May, July, September and November.

In the county of Stark on the first Monday of the months of February, April, June, August, October and December.

§ 4. PROVISIONS OF ACT HELD IN ABEYANCE.] Until the election and qualification of the judge of the district court for said district as hereby provided all of the territory comprehended in said tenth judicial district shall be and remain a part of the sixth judicial district.

§ 5. TERMS OF COURT.] Whenever any of the unorganized counties or territory referred to in subdivision 2 of section 1 of this act become organized as counties, then there shall be held in each of such new counties two terms of court in each year at such times as the judge shall fix.

Approved March 23, 1907.

# LAND COMMISSIONER

## CHAPTER 163.

[H. B. No. 279—Duncan]

### DEPUTY LAND COMMISSIONER.

AN ACT to Amend Section 165 of the Revised Codes of 1905, of Chapter 4, of the Political Code of the State of North Dakota, Providing for the Appointment of a Deputy Commissioner of University and School Lands.

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

§ 1. AMENDMENT.] Section 165, of Chapter 4, of the political code of the state of North Dakota is hereby amended to read as follows:

§ 165. DEPUTY COMMISSIONER.] By and with the consent of the board, the commissioner may appoint a deputy, who before en-

tering upon any of the duties devolving upon him by said appointment shall take and subscribe the oath of office required by law and shall execute to the state a bond with one or more sureties in the penal sum of five thousand dollars, conditioned for the faithful discharge of his duties.

§ 2. EMERGENCY.] Whereas, there is now no provision of law creating the office of deputy land commissioner, an emergency is deemed to exist; therefore, this act shall be in force from and after its passage and approval.

Approved March 13, 1907.

# LEGISLATIVE ASSEMBLY

## CHAPTER 164.

[S. B. No. 212—Spoonheim]

### LEGISLATIVE EMPLOYES.

AN ACT to Amend Section 28 of the Revised Codes of North Dakota of 1905, Relating to Legislative Officers and Employes and Their Compensation.

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

§ 1. AMENDMENT.] Section 28 of the 1905 revised codes of North Dakota 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.

Three assistant enrolling and engrossing clerks, whose compensation shall be four dollars per day.

One voucher clerk and bookkeeper, whose compensation shall be four dollars per day.

One stenographer, whose compensation shall be five dollars per day.

One sergeant-at-arms, whose compensation shall be five dollars per day.

One door-keeper, 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.

Six pages, whose compensation shall be two dollars per day.

One proofreader, whose compensation shall be five dollars per day.

One chaplain, whose compensation shall be three dollars per day.

Two janitors, whose compensation shall be four dollars per day.

One watchman, whose compensation shall be four dollars per day.

One cloak room attendent, whose compensation shall be four dollars per day.

One bill clerk, whose compensation shall be four dollars per day.

One door-keeper for gallery, who shall act as assistant to the sergeant-at-arms, whose compensation shall be four dollars per day.

One assistant bill clerk, whose compensation shall be four dollars per day.

One clerk of judiciary committee, whose compensation shall be five dollars per day.

One clerk of appropriations committee, whose compensation shall be five dollars per day.

One clerk of state affairs committee, whose compensation shall be five 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.

Eight clerks who shall be expert in stenography and typewriting, to perform clerical duties for senators and committees, each 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.

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 voucher clerk and bookkeeper, whose compensation shall be four dollars per day.

One chief enrolling and engrossing clerk, whose compensation shall be five dollars per day.

Three assistant enrolling and engrossing clerks, whose compensation shall be four dollars per day.

One stenographer, whose compensation shall be five dollars per day.

One sergeant-at-arms, whose compensation shall be five dollars per day.

One bill clerk, whose compensation shall be five dollars per day.

One assistant bill clerk, whose compensation shall be four dollars per day.

Two door-keepers, whose compensation shall be four dollars per day, and who shall be assistants to the sergeant-at-arms.

One gallery door-keeper, whose compensation shall be four dollars per day.

One clerk for judiciary committee, whose compensation shall be five dollars per day.

One clerk for appropriations committee, whose compensation shall be five dollars per day.

One clerk for state affairs committee, whose compensation shall be five dollars per day.

Two messengers, 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.

Eight pages, whose compensation shall be two dollars per day.

Four janitors, whose compensation shall be four dollars per day.

One watchman, whose compensation shall be four dollars per day.

One cloak room attendant, whose compensation shall be four 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 four dollars per day.

Twelve clerks, who shall be expert in stenography and typewriting, to perform clerical duties for members of the house and committees, each 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.

§ 2. OTHER EMPLOYES BY RESOLUTION.] No employes of the legislature other than those provided by this act shall be paid, except by a resolution of the senate or house of representatives.

§ 3. SPECIAL PROVISION.] All legislative employes of the tenth legislative assembly who have performed actual services [shall] be paid according to the resolution of each house employing them.

§ 4. EMERGENCY.] Whereas, an emergency exists in this, that the law is inadequate in providing for the payment of certain employes, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 19, 1907.

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## CHAPTER 165.

[H. B. No. 278—House Committee on Apportionment.]

### LEGISLATIVE APPORTIONMENT.

AN ACT to Fix the Number of the Senate and Representatives Which Shall Compose the Legislative Assembly and to Define the Senatorial and Representative Districts of the State of North Dakota, and to Prescribe the Number of Senators and Representatives Therein.

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

§ 1. NUMBER OF DISTRICTS.] Until otherwise provided by law under the terms of the constitution, the legislative assembly of the state of North Dakota shall consist of forty-seven senators and ninety-five representatives, and the senatorial and representative districts of the state shall be formed, and the senators and representatives 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 all towns, villages and cities therein, and be entitled to one senator and two 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, city of Cavalier, village of Canton, Advance, LaMoure, Akra, Beaulieu, Thingvalla, Gardar, Park, Elora and Lodema, in the county of Pembina, and be entitled to one senator and one representative.

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, Opps, Prairie Center, Fertile, city of Park River, village of Edinburg, village of Conway, village of Hoople, village of Pisek, village of Adams, Glenwood, Kinloss, Shepherd, Sauter and Dewey, 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, Oak-

wood, Martin, Walshville, Pulaski, Acton, city of Minto, and St. Andrews, in the county of Walsh, and be entitled to one senator and two representatives.

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

The sixth district shall consist of the third, fourth, fifth and sixth wards of the city of Grand Forks, as now constituted, and the townships of Falconer, [Harvey,] Turtle River, Ferry, Rye, Blooming, Mekinock, 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, second and seventh 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 two representatives.

The eighth district shall consist of the county of Traill, and be entitled to one senator and three representatives.

The ninth district shall consist of the township of Fargo and the city of Fargo, in the county of Cass, and the fractional township number one hundred and thirty-nine, range forty-eight, 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, Normania, Bell, Harmony, Durbin, Addison, Davenport, village of Davenport, Casselton, and the city of Casselton, in the county of Cass, and be entitled to one senator and two representatives.

The eleventh district shall consist of the townships of Gunkle, Rush River, Hunter, Arthur, Amenia, Everest, Maple River, Leonard, Dows, Empire, Wheatland, Gill, Walburg, Watson, Page, Rich, Ayr, Buffalo, the 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 two representatives.

The twelfth district shall consist of the townships of Eagle, Abercrombie, village of Abercrombie, Dwight, Ibsen, Center, Mooreton, Brandenburg, Summit, Fairmount, village of Fairmount, DeVillo, Lamars, Waldo, Greendale, and the city of Wahpeton, in the county of Richland, and be entitled to one senator and two representatives.

The thirteenth district shall consist of the county of Sargent, and be entitled to one senator and one representative.

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, Laketown, Pierce, Uxbridge, Edna, Rogers, Grand Prairie, Minnie Lake, Anderson, Hobart, Potter, village of Dazey, village of Wimbledon, village of Sanborn, city of Valley City, township one hundred forty-three, range fifty-six, township one hundred forty-three, range fifty-eight, township one hundred forty-two, range fifty-eight, township one hundred forty-one, range fifty-eight, township one hundred forty-one, range fifty-nine, township one hundred forty-one, range sixty-one, and township one hundred forty, range fifty-eight, in the county of Barnes, and shall 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, Byron, Linden, Dresden, Langdon, city of Langdon, South Dresden, Grey, Glenila, Huron, Moscow, Waterloo, Elgin, Perry, Billings, Nekoma, Storlie, Banner, Trier, Gordon, Henderson, Nekoma village, Sievert, Sarles village, Bruce, Mount Carmel and Minto, in Cavalier county, and shall 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 one representative.

The twentieth district shall consist of the county of Benson, and be entitled to one senator and two representatives.

The twenty-first district shall consist of the county of Ramsey and be entitled to one senator and 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 four 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 shall be entitled to one senator and one representative.

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 all that part of the county of Bottineau lying east of the Mouse river, and shall be entitled to one senator and two representatives.

The twenty-ninth legislative district shall consist of the city of Minot and townships 151, 152, 153, 154, 155, 156, 157 and 158 north of ranges 81, 82, 83 and 84 west, and also townships 155

and 156 north of range 85 west, in the county of Ward, and shall 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 county of Stark 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 two representatives.

The thirty-fourth district shall consist of townships 155, 156, 157 and 158 north, range 75 west, and also townships 155, 156, 157, 158 and 159 north of ranges 76, 77, 78, 79 and 80 in the county of McHenry and be entitled to one senator and two representatives.

The thirty-fifth district shall consist of townships and fractional townships as follows: 143 north of ranges 80 and 81 west, and 144 north of ranges 80, 81, 82, 83 and 84 west, and townships 145 north of ranges 74, 75, 76, 77, 78, 79, 80, 81, 82, 83 and 84; townships 146 north of ranges 74, 75, 76, 77, 78, 79, 80, 81, 82, 83 and 84, in the county of McLean, and shall be entitled to one senator and one representative.

The thirty-sixth district shall consist of the counties of McIntosh and Logan, and shall be entitled to one senator and two representatives.

The thirty-seventh district shall consist of the townships of Walcott, Colfax, Barrie, Helendale, Sheyenne, Viking, Garbourg, Freeman, West End, Homestead, Grafton, Antelope, Danton, Garfield, Dexter, Wyndmere, village of Wyndmere, Belford, Liberty, Brightwood, town of Hankinson, Elma, Durr, city of Lidgerwood, Moran and Grant, in the county of Richland, and be entitled to one senator and two representatives.

The thirty-eighth district shall consist of the townships of Weimer, Noltimeir, Alta, Oriska, Springvale, Cuba, Green, Herman, Mansfield, Meadow Lake, Svea, Scandia, Norman, Binghampton, Raritan, Thordenskjold, Oakville, Spring Creek, Rosebud, Greenland, the village of Litchville, township one hundred forty, range sixty-one, township one hundred thirty-nine, range fifty-eight, and township one hundred thirty-eight, range fifty-eight, in the county of Barnes, and shall be entitled to one senator and one representative.

The thirty-ninth district shall consist of the counties of Billings, Mercer and Oliver, and shall be entitled to one senator and two representatives.

The fortieth district shall consist of the townships of Hope, Freemont, Olga, Loam, Hay, Harvey, Manilla, Easby, Alma, East Alma, Montrose, Osford, village of Milton and Osnabrock, Osnabrock village, in the county of Cavalier, and be entitled to one senator and one representative.

The forty-first district shall consist of the counties of Williams and McKenzie, and shall be entitled to one senator and two representatives.

The forty-second district shall consist of the county of Pierce, and shall be entitled to one senator and two representatives.

The forty-third district shall consist of townships 159, 160, 161, 162, 163 and 164 north of ranges 84, 85, 86, 87, 88, 89, 90, 91, 92, 93 and 94 west, in the county of Ward, and shall be entitled to one senator and three representatives.

The forty-fourth district shall consist of that portion of Ward county lying in townships 149, 150, 151, 152, 153, 154 of ranges 85, 86, 87, 88, 89, 90, 91, 92, 93 and 94 west, and townships 155, 156, 157 and 158 of ranges 86, 87, 88, 89, 90, 91, 92, 93 and 94 west, and also townships 157 and 158 north of range 85 west, and shall be entitled to one senator and one representative.

The forty-fifth district shall consist of townships 151, 152, 153 and 154 north of ranges 75, 76, 77, 78, 79 and 80, in the county of McHenry, and shall be entitled to one senator and one representative.

The forty-sixth district shall consist of the following townships and fractional townships: townships 147 north of ranges 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90 and 91, and townships 148 north of ranges 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90 and 91, and township 149 north of ranges 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90 and 91, and townships 150 north of ranges 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90 and 91, in the county of McLean, shall be entitled to one senator and two representatives.

The forty-seventh district shall consist of all that part of Bottineau county lying west of the Souris river, and shall be entitled to one senator and one representative.

Approved March 13, 1907.

# LIENS

## CHAPTER 166.

[H. B. No. 68—Connolly]

### LIENS ON FUTURE INTEREST.

AN ACT to Amend Section 6130 of the Revised Codes of North Dakota for the Year 1905, Relating to Liens on Future Interest.

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

§ 1. AMENDMENT.] Section 6130 of the revised codes of North Dakota for the year 1905 is hereby amended so as to read as follows:

§ 6130. LIENS ON FUTURE INTEREST.] An agreement may be made to create a lien upon property not yet acquired or not yet in existence by the party agreeing to give the lien. 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, that no lien or mortgage shall be created on the future earnings of any machine or machinery operated in whole or in part with man or animal.

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

Approved March 14, 1907.

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## CHAPTER 167.

[S. B. No. 164—Young]

### MECHANIC'S LIEN.

AN ACT to Amend Section 6241 of the Revised Codes of 1905, Being Section 4792 of the Revised Codes of 1895, Relating to the Clerk's Record of Mechanic's Liens.

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

§ 1. AMENDMENT.] Section 6241 of the revised codes of 1905, being section 4792 of the revised codes of 1895, is hereby amended so as to read as follows:

§ 6241. DUTY OF CLERK OF COURT.] The clerk of the district court shall indorse upon every account the date of its filing, and shall make an abstract thereof in a book to be kept by him for that purpose, and properly indexed, containing the date of its filing, the name of the person filing the lien, the amount of such lien, the name of the person against whose property the lien is filed, and a description of the property to be charged with the same. He shall also make and keep a tract index in which shall be entered a description of all property covered or charged with the lien.

Approved March 19, 1907.

# CHAPTER 168.

[H. B. No. 53—Griffith]

## LIEN FOR REPAIRS.

AN ACT to Amend Section 6295 of the Revised Codes of 1905, Providing for a Lien for Repairs of Personalty.

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

§ 1. AMENDMENT.] Section 6295 of the revised codes of 1905 is amended to read as follows:

§ 6295. LIEN FOR REPAIRS OF PERSONALTY.] Any blacksmith or machinist having an established place of business within the state, who makes, alters or repairs any engine, threshing machine or well machine at the request of the owner or legal possessor of the property, shall have a lien upon the same for his reasonable charges for work done and materials furnished, until the charges are paid, and said lien shall have priority over all other liens, chattel mortgages or incumbrances against said personal property; provided, however, that any person entitled to a lien, under this section, shall, within thirty days after materials are furnished or labor performed in altering or repairing such personal property, file in the office of the register of deeds of the county a statement in writing, verified by oath, showing the labor performed, materials furnished, the price agreed on for the same, if no price is agreed on then state the reasonable value thereof, the name of the person for whom the work or labor was performed, or to whom materials were furnished, or both, and descriptions of the property upon which the lien was claimed; provided, that when the person retains possession of this property so altered or repaired no statement is required to be filed as above provided; provided, that if any person makes, alters or repairs more than one article of personal property for the same owner or legal possessor thereof, he may include all such articles of personal property so made, altered or repaired, within thirty days preceding the filing thereof, in the same statement, and the statement so made shall have the same force and effect as to each article enumerated therein as though a separate statement had been filed for each of said articles so made, altered or repaired. Unless the person entitled to said lien shall file such statement within the time aforesaid, he shall be deemed to have waived his right thereto; provided, further, that the person holding such lien on property that has been previously encumbered by mortgage, before the foreclosure of same, shall give to the record holder of such mortgage twenty days' notice in writing of his intention to foreclose said lien before beginning action or proceedings for foreclosure of the same, which notice may be served by

sending same in a registered letter addressed to such lienholder at his last known postoffice address; and provided, further, that the holder of any mortgage against property on which the lien herein provided for, shall have been filed, may at any time previous to sale, pay off the amount due on such lien, the holder thereof shall assign the same to such person and thereafter he shall be entitled to all the rights that the person filing said lien would have been had the same not been paid.

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

§ 3. EMERGENCY.] Whereas, the present laws of this state, relating to liens for repairs of personalty, being inadequate, therefore an emergency exists, and this law shall be in effect from and after its passage and approval.

Approved March 13, 1907.

# LIVE STOCK

## CHAPTER 169.

[S. B. No. 235—Talcott]

### LIVE STOCK SANITARY BOARD.

AN ACT to Establish the Live Stock Sanitary Board of North Dakota and to Provide for the Suppression and Control of Dangerous, Contagious and Infectious Diseases of Domestic Animals.

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

§ 1. LIVE STOCK SANITARY BOARD, HOW COMPOSED. TERM OF OFFICE.] A board is hereby established to be known as the "state live stock sanitary board." This board shall consist of five members to be appointed by the governor. One shall be appointed for a term of five years, one for a term of four years, one for a term of three years, one for a term of two years and one for a term of one year, whose term of office shall commence on the first day of April, 1907, and the successor of each shall be appointed for the term of five years thereafter and until their successors are appointed and qualified. Each member of said board shall be a qualified elector of the state of North Dakota. Three members of said board shall be persons who are financially interested in the breeding and maintenance of live stock in the state of North Dakota and the other two members of said board shall be com-

petent veterinarians who are graduates of some regularly organized and recognized veterinary college or university.

§ 2. BOARD ESTABLISHES RULES AND REGULATIONS.] It shall be the duty of the said state live stock sanitary board to protect the health of the domestic animals of this state; to determine and employ the most efficient and practical means for the prevention, suppression, control and eradication of dangerous, contagious and infectious diseases among the domestic animals of the state of North Dakota, and for these purposes it is hereby authorized and empowered to make all such rules and regulations for the conduct of the business of said state live stock sanitary board as it may deem expedient.

§ 3. PUBLICATION OF REGULATIONS.] Said state live stock sanitary board shall make the necessary regulations to carry into effect the purpose of this act, and any regulations so made shall be published in some newspaper or in as many newspapers as said board may deem necessary, or they shall be posted in not less than five public places, and such publication shall be deemed a legal notice to all persons.

§ 4. MEETINGS. COMPENSATION.] The said state live stock sanitary board shall hold its meetings at the state capitol at such times as it may designate, but there shall not be to exceed four regular meetings each year; provided, that the president of the board shall have power to call special meetings whenever in his judgment it becomes necessary. The members of the board shall receive as compensation for their services the sum of three dollars per day for each day employed, and five cents per mile actually and necessarily traveled in attending the meetings of the board, which sum shall be paid out of the state treasury upon vouchers of the board duly certified by the president and secretary thereof.

§ 5. OATH OF OFFICE. QUALIFICATIONS.] At the first meeting of the said state live stock sanitary board the members thereof shall take and subscribe the oath of office required of other civil officers and shall then proceed to elect a president, secretary and executive officer. The executive officer shall be a competent and skilled veterinarian who at the time of said election shall be a graduate in good standing of a recognized school of veterinary medicine and surgery, and who shall not be a member of this board.

§ 6. SALARY OF EXECUTIVE OFFICER. BOND. OATH.] The executive officer of said state live stock sanitary board shall receive for his services such a sum as may be deemed proper by said board. The payment of said salary shall be made from the funds appropriated for the use of this board and in order to carry into effect the purpose of this act. Before entering upon the discharge of these duties he shall give a bond to the state of North Dakota with good and sufficient surety in the sum of five thousand dollars, conditioned on the proper discharge of the same. He shall further-

more receive actual expenses incurred and paid by him in the discharge of his duties, and such amounts shall be paid out of the fund appropriated for said board. Said executive officer shall, upon entering upon his duties, take an oath well and truly to perform all duties required of him under the provisions of this act, which said oath shall be taken before any judge of a district court or notary public within the state and shall be filed with the secretary of state.

§ 7. DUTIES OF EXECUTIVE OFFICER.] The executive officer of said state live stock sanitary board shall act as state veterinarian and it shall be his duty:

1. To ascertain by personal examination or through reports from other accredited representatives of said board all information which he can obtain regarding the existence of contagious, infectious and epidemic diseases of animals.

2. To execute all orders, rules and regulations made by said live stock sanitary board and to present at the quarterly meetings of said board a detailed report of all matters connected with the work done by him or his subordinates during the quarter preceding said meeting.

§ 8. BACTERIOLOGIST AND CONSULTING VETERINARIAN.] The professor of veterinary science of the state agricultural college shall act as bacteriologist and consulting veterinarian to the said state live stock sanitary board, and it shall be his duty to make bacteriologic or pathologic examination of all diseased animals or portions thereof, or of such material as may be forwarded to him by the said board or its duly authorized agents. It shall also be his duty to furnish material as far as lies in his power for the diagnosis of contagious diseases and instruction as to its use. For the services rendered said bacteriologist shall receive such compensation as the state live stock sanitary board may deem proper, which shall be paid out of the fund appropriated for the use of said board.

§ 9. POWERS OF BOARD.] Authority is hereby given to said state live stock sanitary board to take all steps it may deem necessary to control, suppress and eradicate any and all contagious and infectious diseases among any of the domestic animals of the state, and to that end said board is hereby empowered to quarantine any domestic animal which is infected with any such disease or which has been exposed to infection therefrom, and to kill any animal so infected; to regulate or prohibit the arrival in or departure from the state, or any portion of the state, of any such exposed or infected animal, and at the cost of the owner thereof to detain any domestic animal found in violation of any such regulation or prohibition.

§ 10. KILLING OF DISEASED STOCK, METHOD OF. SELECTION OF EXPERTS.] Whenever a domestic animal has been adjudged to be affected with a contagious or infectious disease and has been ordered killed by said state live stock sanitary board or by an

accredited agent thereof, the owner or keeper of said animal shall be notified thereof, and within twenty-four hours thereafter its owner or keeper may file a protest against the killing thereof with said board or its accredited agent who has ordered such animal killed. Such notice shall state under oath that to the best of the knowledge and belief of the person making such protest, such animal is not infected with any contagious or infectious disease; whereupon an examination of the animal involved shall be made by three experts, one of said experts to be appointed by said state live stock sanitary board, one to be appointed by the person making such protest and the two thus appointed to choose a third, but all experts shall be persons learned in veterinary medicine and surgery and graduates of a regularly organized and recognized veterinary college.

§ 11. EXPENSE OF EXPERTS, HOW PAID.] In case all three experts or any two of them declare that such animal is free from any contagious or infectious disease, then the expense of the consultation shall be paid by the state live stock sanitary board out of the funds appropriated for the carrying into effect of this act. and in case the three experts or any two of them declare the animal to be affected with a contagious or infectious disease then the expenses incurred in the consultation shall be paid by the person making the protest, and said expenses may be collected the same as in case of appeal in civil action.

§ 12. DISPOSAL OF CARCASS OF DISEASED ANIMAL.] It shall be the duty of the owner or keeper of any animal killed by the order of the live stock sanitary board to dispose of the carcass of said animal in the manner prescribed by the board, and whenever the owner or keeper of an animal killed as aforesaid be unknown. the carcass shall be disposed of in the aforesaid manner at the expense of the county in which the carcass is located.

§ 13. BOARD MAY EMPLOY AGENTS AND ASSISTANTS.] The state live stock sanitary board is further authorized to employ such officers, agents or assistants as it may deem necessary to carry out the purposes of this act, at a compensation to be fixed by the said board and which shall be paid from the funds appropriated for the purpose of carrying into effect the purpose of this act. Said live stock sanitary board is further empowered to grant the same authority as agents of said board to the inspectors of the United States department of agriculture, but when said inspectors are engaged in work by direction or request of the board they shall not receive compensation from the state or be required to give bond.

§ 14. BOARD HAS POWERS OF JUSTICES OF THE PEACE.] The state live stock sanitary board or any member or duly authorized agent thereof, may examine or cause to be examined under oath all persons believed to possess knowledge of material facts concerning the existence or dissemination, or danger of dissemination

of disease among domestic animals, and for this purpose shall have all the powers vested in justices of the peace to take depositions and to compel witnesses to attend and testify, and to administer oaths. Witnesses shall receive the same fees for attendance and travel as witnesses before the district courts, and said fees shall be paid out of the general fund of the state.

§ 15. POWER OVER AND OF PEACE OFFICERS.] The state live stock sanitary board shall have power to call any sheriff, deputy sheriff or constable to execute its orders, and officers shall obey the orders of said board, and the officers performing such duties shall receive compensation therefor as is prescribed by law for like services and shall be paid therefor in like manner. Any officer may arrest and take before any justice of the peace of the county any person found violating any of the provisions of this act, and such officer shall immediately notify the state's attorney of such arrest and he shall prosecute the person so offending according to law.

§ 16. ANNUAL REPORT.] The said live stock sanitary board shall make annual report to the governor of North Dakota of all its proceedings and transactions from the preceding year, on the first day of December, and said report shall be published by the state of North Dakota.

§ 17. DUTY OF OWNERS OF STOCK TO REPORT TO BOARD.] It shall be the duty of any person who discovers, suspects or has reason to believe that any domestic animal belonging to him or any in his charge or that may come under his observation belonging to other parties is affected with any contagious or infectious disease, to immediately report such fact, belief or suspicion to the state live stock sanitary board, or to a member or representative thereof.

§ 18. EMERGENCY FUND IN CASE OF EPIDEMIC.] In case of any serious outbreak of any contagious, infectious or epidemic diseases among domestic animals which can not be controlled with the funds at the disposal of said state live stock sanitary board, said board shall at once notify the governor, who thereupon shall call a meeting of the emergency commission, who may authorize money to be drawn from the state treasury to meet the emergency.

§ 19. APPROPRIATION.] There is hereby appropriated out of any money in the state treasury not otherwise appropriated the sum of seven thousand five hundred dollars per annum or so much thereof as may be necessary for the purpose of paying the expenses incurred by the state live stock sanitary board in carrying out the purposes of this act.

§ 20. PENALTY FOR VIOLATION OF LAW.] Any person violating any of the provisions of this act or any rule or regulation made by the state live stock sanitary board shall be guilty of a misdemeanor and be punished by a fine of not less than twenty-five dollars or more than five hundred dollars, or by imprisonment not less than thirty days or more than ninety days.

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

§ 22. EMERGENCY.] Whereas, the terms of office of the present state veterinarians expire considerable time in advance of the constitutional date when acts take effect; and whereas, the said state live stock sanitary board will require considerable time to formulate its labors, therefore an emergency exists and this act shall take effect and be in force from and after its passage and approval by the governor.

Approved March 15, 1907.

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## CHAPTER 170.

[H. B. No. 225—House Committee on Live Stock]

### GLANDERS.

AN ACT Indemnifying Owners for Animals Killed or Destroyed According to Law for Being Affected with the Disease Known as Glanders.

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

§ 1. APPRAISAL OF ANIMALS.] Whenever the state veterinarian shall deem the slaughter of a horse, gelding, mare, ass or mule necessary under section 2000 of the political code of 1905, he shall notify in writing a justice of the peace of the county in which the said diseased animals are, describing in said notice the diseased animals with a reasonable degree of certainty, stating the name of the owner when known. The said justice of the peace shall after entering the same upon his docket summon three disinterested citizens as witnesses are summoned in justice court, who shall not be residents of the immediate neighborhood in which the animals are owned and kept. The said appraisers shall before entering upon the discharge of their duties be sworn to make a true and faithful appraisement of the value of said animals without prejudice or favor. Said appraisers shall certify in their return that they have made said appraisement and have seen said animal or animals destroyed. In making the appraisement the value put upon the animal or animals shall be what they would have been worth had they not been affected with glanders; provided, however, that in no case shall the appraised value of any one animal exceed one hundred dollars to be paid by the state as hereinafter provided

§ 2. COMPENSATION FOR ANIMALS KILLED.] Claims against the state arising from the slaughter of animals as herein provided shall be made by filing with the state auditor a copy of the state veterinarian's notice to the justice of the peace and return with affidavits from the owner that the animal has been buried in

accordance with section 2001 of the political code of 1905, which notice and return shall be certified to by the justice of the peace on whose docket they are recorded. The state auditor shall examine the same and if found correct he shall issue a warrant on the state treasurer for one-half of the sum named in the appraisers' return.

§ 3. PROCEEDINGS, HOW CONDUCTED. FEES.] The justice of the peace before whom any such proceeding shall be conducted shall enter upon his docket a record of all such proceedings and shall allow and tax all costs of justice officers, appraisers and witnesses the same as in other cases. The said appraisers shall be entitled at the rate of two dollars per day or parts thereof, which costs and fees shall be certified by him to the board of county commissioners and shall be audited and paid out of the general county fund, the same as costs in criminal actions before justices of the peace.

§ 4. PAYMENT, WHEN NOT MADE.] The right to indemnify shall not exist and payment shall not be made in the following cases: First, for animals belonging to the United States or any city, county, township or village in the state; second, when the owner or claimant at the time of coming into possession of the animal knew it to be diseased; third, for animals found to have been diseased at the time of their arrival in this state; fourth, animals that are brought into the state to do contract work; fifth, when the owner or claimant is a non-resident; sixth, when the animal at the time of its destruction has been in the state less than six months; seventh, when the owner shall have been guilty of negligence by willfully exposing his animals to the influence of infectious or contagious surroundings.

§ 5. REPEAL.] All acts or parts of acts in conflict herewith are hereby repealed.

§ 6. EMERGENCY.] Whereas, an emergency exists in that there is no law covering the provisions of this act, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 12, 1907.

## CHAPTER 171.

[H. B. No. 179—Ueland]

### LIVE STOCK ASSOCIATION.

AN ACT Appropriating Money for the Benefit of the North Dakota Live Stock Association and Prescribing Its Duties.

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

§ 1. APPROPRIATION. DUTY OF COMMISSIONER OF AGRICULTURE.] The sum of five hundred dollars is hereby appropriated annually out of any money in the state treasury not otherwise appropriated for the use and benefit of the North Dakota live stock association. Said association shall publish an annual report of its proceedings together with such information as may be of general interest to its members, keep and publish a directory of all reliable breeders of pure bred live stock who are members of said association and promote the interests of owners and breeders of live stock in general. The appropriation herein mentioned shall be expended under the direction of the commissioner of agriculture, who shall publish and distribute information furnished by the live stock association to an extent not exceeding this appropriation.

Approved March 5, 1907.

# MARRIAGES

## CHAPTER 172.

[H. B. No. 60—Tufte]

### WHO MAY SOLEMNIZE MARRIAGES.

AN ACT to Amend Section 4036 of the Revised Codes of North Dakota for 1905, Relating to Who May Solemnize Marriages and to Marriage License.

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

§ 1. AMENDMENT.] Section 4036 of the revised codes of the state of North Dakota for 1905 is hereby amended as follows:

§ 4036. WHO MAY SOLEMNIZE MARRIAGES. LICENSE.] Marriages may be solemnized by all judges of courts of record within their respective jurisdictions; by justices of the peace, within their

respective jurisdictions; by ordained ministers of the gospel and priests of every church; but marriages solemnized by the society of Friends or Quakers, according to the form used in their meetings shall be valid. No such person shall solemnize any marriage until the parties thereto shall produce a license, issued by the county judge of the county in which either one of the contracting parties resides, or if such county is unorganized, of the county to which it is attached for judicial purposes. When any person authorized by law shall solemnize a marriage, he shall fill out and sign a certificate following the marriage license on the blank form prescribed by law, giving his official title, or if a minister of the gospel or priest, the ecclesiastical body with which he is connected and return such license and certificate to the county judge of the county where the license originally was issued, within thirty days thereafter. Such certificate shall be signed by two witnesses to the marriage ceremony in addition to the signature of the person who solemnized the marriage.

Approved March 13, 1907.

# MASTER AND SERVANT

## CHAPTER 173.

[H. B. No. 210—Collins]

### WAGE-TERM

AN ACT to Amend Section 5572 of the Revised Codes of 1905, Relating to Master and Servant.

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

§ 1. AMENDMENT.] Section 5572 of the revised codes of North Dakota for 1905 is amended and re-enacted to read as follows:

§ 5572. HIRING PRESUMED TO BE FOR WAGE-TERM.] A servant is presumed to be hired for such length of time as the parties shall agree upon. A hiring at a monthly rate is to be presumed to be for one month or such number of months as may be agreed upon. A hiring for the season shall be presumed to be from the date of such hiring to November 1st of the year of such hiring. A hiring at a yearly rate is presumed to be for one year. A hiring at a daily rate shall be presumed to be an entire contract for as many days as the parties agree upon, and such contract shall not be presumed to be for one day. A hiring by piece work, for no specified time.

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

Approved March 13, 1907.

# MILITIA

## CHAPTER 174.

[S. B. No. 87—Hanna]

### AID TO NATIONAL GUARD.

AN ACT Making an Appropriation Towards Paying Deficiency or Debts on Armories Already Constructed, or Towards the Construction of Armories for the Various Military Companies of the State of North Dakota, and for the Creating of a Board of Armory Supervisors and Defining Its Duties, for the Transfer of Armories Upon the Mustering Out of any Military Organization Enumerated, and Defining the Duties of the State Treasurer in Carrying Out the Provisions of this Act.

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

§ 1. BOARD OF ARMORY SUPERVISORS CREATED. DUTIES.] The governor, adjutant general and colonel commanding the regiment are hereby constituted a board of armory supervisors, whose duty it shall be to approve the selection of all armory sites and the purchase of buildings thereon; to approve the plans and specifications for the erection of all armories, and to audit and approve all bills, claims and accounts in connection with the construction or purchase of all armories before such bills, claims and accounts shall be paid, and to perform such other duties as the provisions of this act require.

§ 2. APPROPRIATION.] To every company, battery or regimental band of the North Dakota national guard who shall have first deposited with the state treasurer the sum of two thousand dollars as an evidence of good faith, and shall have conveyed to the state of North Dakota by a good and sufficient deed of warranty the title to a site for an armory, which site shall have first been approved by the board of armory supervisors, or shall have conveyed to the state an armory site with armory buildings thereon, such buildings to be of the value of not less than seven thousand dollars, and to be first approved by the board of armory supervisors, there is hereby appropriated the sum of five thousand dollars; provided, that only one such appropriation shall be made for armory purposes, in any one city or town; and provided, further, that no more than thirteen state military organizations shall receive the benefit of this act; and provided, further, that no more than three state military organizations shall receive appropriations in the amount specified in the year A. D. 1908, and two in each year

thereafter until the thirteen state military organizations shall each have received an appropriation of five thousand dollars; and provided, further, that the board of armory supervisors shall designate which state military organizations shall receive aid in any one year and in determining which shall receive aid first, they shall take into consideration the proficiency of the military organization asking for aid and its needs; and provided, further, there is hereby appropriated out of the state treasury in the year A. D. 1908 the sum of fifteen thousand dollars and the sum of ten thousand dollars annually thereafter for five years.

§ 3. DUTY OF STATE TREASURER.] The state treasurer shall keep a separate account with each company, battery or regimental band that shall avail itself of the provisions of this act, crediting the same with the two thousand dollars deposited by the company, battery or regimental band with the state treasurer, together with the appropriation made under the provisions of this act, and all bills for the construction or purchase of armories, or the paying of debts or mortgages against armories shall, after being approved by the board of armory supervisors and the state board of auditors, be paid out of the said account or fund upon the warrant of the state auditor.

§ 4. TRANSFER OF ARMORIES WHEN COMPANY, BATTERY OR REGIMENTAL BAND IS MUSTERED OUT OF SERVICE.] Whenever any company, battery or regimental band which has availed itself of the provisions of this act and has received the appropriation provided herein, shall be mustered out of the service of the state and it shall appear that there is no probability of a new company, batttery or regimental band being organized in the city or town in which the armory is located, then and in that case the board of armory supervisors shall have the authority, and are hereby empowered, to transfer the said property to the municipality in which the same is located for public purposes upon the repayment to the state of the said appropriation provided in this act, without interest.

§ 5. PROVIDING FOR MORTGAGING ARMORIES TO THE STATE WHEN OWNED BY ANY COMPANY, BATTERY OR REGIMENTAL BAND.] Whenever any such company, battery or regimental band shall own any site with armory buildings thereon of the value of ten thousand dollars, exclusive of the value of the land, and such buildings and site shall have been approved by the board of armory supervisors as sufficient and desirable for armory purposes, then, such company, battery or regimental band, may, with the approval of the board of armory supervisors, obtain the benefits of the appropriation hereinbefore provided by executing to the state of North Dakota a mortgage on such property for the sum of five thousand dollars, payable on demand, and during the life of said mortgage said building and site shall be under the control and supervision of such company, battery or regimental band.

§ 6. REPEAL.] Sections 1789, 1790, 1791, 1792 and 1793 of the revised codes of 1905 are hereby repealed.

Approved March 4, 1907.

# MORTGAGES

## CHAPTER 175.

[H. B. No. 59—J. M. Anderson]

### SATISFACTION OF LIENS AND MORTGAGES.

AN ACT to Provide for the Satisfaction of Liens and Mortgages Upon the Property Before Date of Maturity, and for the Discharge of the Same by the Laws Now in Force in the State of North Dakota.

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

§ 1. SATISFACTION OF MORTGAGE BEFORE MATURITY.] Any lien or mortgage upon property may be paid or satisfied before the date of maturity if the mortgagor so desires, providing that the full amount which would otherwise be due on date of maturity shall first be tendered or delivered in satisfaction thereof.

§ 2. REPEAL.] All laws now in force within the state pertaining to the satisfaction and discharge of liens and mortgages shall apply to this act.

Approved March 13, 1907.

## CHAPTER 176.

[H. B. No. 40—Burdick]

### RELEASE OF MORTGAGES AND LIENS.

AN ACT to Amend Section 6173 of the Revised Codes of 1905 of the State of North Dakota, Relating to the Release of Mortgages.

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

§ 1. AMENDMENT.] Section 6173 of the revised codes of 1905 of the state of North Dakota is amended to read as follows:

§ 6173. WHEN MORTGAGE SATISFIED MORTGAGEE MUST ON DEMAND DISCHARGE. PENALTY.] When any mortgage or lien upon property has been satisfied the owner of such mortgage or lien must immediately upon demand of the owner of the property execute and deliver to him a certificate of the discharge thereof and must acknowledge the execution thereof so as to entitle it to be recorded or he must enter satisfaction or cause satisfaction

of such mortgage or lien to be entered of record; and any owner of any mortgage or lien who refuses to execute or deliver to the owner of the property covered by the mortgage or lien the certificate of discharge and to acknowledge the execution thereof or to enter satisfaction or cause satisfaction to be entered of the mortgage or lien as provided by law, is liable to the owner of such property or his assignee or legal representative for all damages which he or they may sustain by reason of such refusal, and shall also forfeit to them the sum of one hundred dollars; provided, however, that when a mortgage or lien upon personal property has been satisfied, the owner of such mortgage or lien must within thirty days thereafter cause a certificate of discharge thereof to be transmitted to the office of the register of deeds of the county where such mortgage or lien is of record, and any owner of any mortgage or lien who fails to cause a certificate of discharge thereof to be so transmitted shall be liable to the owner of such property, and his assignee or legal representative in damage in the sum of ten dollars for each and every satisfaction not so transmitted.

Approved March 13, 1907.

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## CHAPTER 177.

[S. B. No. 267—Purcell]

### AUTHORITY OF ATTORNEY IN FORECLOSURE

AN ACT to Amend Section 7176 of the 1905 Revised Codes of North Dakota, Relating to Attorney's Fees on Foreclosures.

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

§ 1. AMENDMENT.] Section 7176 be and the same is hereby amended to read as follows:

§ 7176. COSTS ON FORECLOSURE OF LIENS AND ATTORNEY'S AFFIDAVITS.] In all actions or proceedings for the foreclosure of a mortgage upon personal property or of a mortgage or other lien upon real property the plaintiff or person commencing such action or proceeding shall be entitled to tax as a part of his costs, when the amount of the debt secured by such mortgage or liens does not exceed the sum of five hundred dollars, the sum of twenty-five dollars; when the amount of the debt so secured exceeds five hundred dollars and does not exceed one thousand dollars, the sum of fifty dollars; when the amount of debt so secured exceeds one thousand and does not exceed two thousand dollars, the sum of seventy-five dollars; when the amount of the debt so secured exceeds two thousand dollars, the sum of seventy-five dollars and

in addition thereto two per cent on the amount so secured in excess of two thousand dollars; provided, that none of the above fees shall be allowed unless the foreclosure proceedings shall be conducted under the supervision of an attorney duly authorized to practice in the courts of this state; provided, however, that before any attorney's fee provided for herein shall be allowed, paid, received, claimed or charged against the property or allowed or taxed in said action or proceedings the attorney or attorneys bringing the action or proceeding above mentioned shall at or prior to the time of the sale of the property or prior to the time of entering judgment in said action or proceeding, file with the register of deeds of the county in which said action is commenced, an affidavit to the effect that such attorney or attorneys have been in good faith employed to bring said action or proceedings to foreclose said mortgage or other lien and that the full amount of the fees provided by law inures solely to his or their benefit, and that no agreement or understanding directly or indirectly has been made with any person for any division of said attorney's fees, that no part thereof is or has been agreed to be paid to the party foreclosing said mortgage or other lien and that such attorney or attorneys is or are actual bona fide residents of the state of North Dakota.

Approved March 19, 1907.

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# OFFICIAL BONDS

## CHAPTER 178.

[S. B. No. 90—Kraabel]

### STATE TREASURER'S BOND.

AN ACT to Amend Section 122 of the Revised Codes of 1905 of the State of North Dakota, Relating to State Treasurer's Bond.

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

§ 1. AMENDMENT.] Section 122 of the revised codes of 1905 of the state of North Dakota is hereby amended to read as follows:

§ 122. OFFICIAL BOND.] The state treasurer must execute an official bond in the sum of not less than five hundred thousand dollars. Such bond shall be executed by the treasurer as principal and by sureties who must justify in the aggregate in a sum equal to twice the amount of the bond. The sureties may consist of freeholders of the state of North Dakota or of corporations authorized to transact the business of fidelity insurance within the state of North Dakota, or may consist in part of such freeholders and

in part of such corporations and may consist of one bond for said total amount or of more than one bond, each for a lesser amount but aggregating not less than said total amount; and in the case of more than one bond being used, and in case of loss or liability, the liability of each separate bond shall be held to bear the same proportion to the total loss or liability as the amount of each separate bond shall bear to the total aggregate amount of all such bonds. Such bond or bonds shall be approved by the attorney general as to form and by the governor as to the sufficiency of the sureties. In case any such bond is approved, having as sureties one or more corporations as herein provided, then the premium for such bond or bonds shall be audited and paid out of the general fund of the state.

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

Approved March 19, 1907.

# PARKS

## CHAPTER 179.

[H. B. No. 315—J. A. Sorley]

### CREATING PARK DISTRICTS.

AN ACT Creating Park Districts and for the Government Thereof, Creating a Board of Park Commissioners, Conferring Power and Authority Upon Such Board and District, and Providing Rules for the Government Thereof.

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

§ 1. PROCEDURE.] Any incorporated city of the state of North Dakota may by a two-thirds vote of its council by yeas and nays at a regular meeting thereof, take advantage of the provisions of this act.

§ 2. PARK DISTRICTS, HOW CREATED.] Any city desiring to take advantage of this act shall do so by ordinance expressing its intent and desire so to do, whereupon the territory embraced in such city shall be deemed and it is hereby declared to be a park district of the state of North Dakota.

§ 3. HOW DESIGNATED. POWERS OF.] Each park district of the state shall be known as "park district of the city of.....," and as such shall have a seal and perpetual succession, with power

to sue and be sued, contract and be contracted with, acquire by purchase, gift, devise or otherwise, and hold, own, possess and maintain real and personal property in trust for the purpose of parks, boulevards and ways, and to exercise all the powers hereinafter designated or which may hereafter be conferred upon it.

§ 4. ELECTION OF COMMISSIONERS. FILLING VACANCIES.] The powers of each park district shall be exercised by a board of park commissioners consisting of five members who shall hold office for the period of five years from and after the date of their election and qualification and until their successors are duly elected and qualified, except the members of the first board, who shall hold office as follows: One member until the third Tuesday in April of the year following their election, one member until one year from the last mentioned date, one member until two years from the last mentioned date, one member until three years from the last mentioned date, and one member until four years from such last mentioned date. The members of the park commission shall qualify by taking and filing with the city auditor of the city the oath prescribed by section 211 of the constitution. The city treasurer shall be ex-officio treasurer of the park district. He shall take the oath prescribed by section 211 of the constitution and shall furnish such bond as may be required by the commission. The members of the commission shall be elected by the qualified electors of the park district at the annual city election held on the first Monday of April of each year, shall qualify within ten days after their election, and shall on the third Tuesday of April organize by the selection of a president and vice president. The first board may be elected at a regular annual city election or at a special election for that purpose called by the city council. The members of the board shall receive no compensation for their services as such, and shall have the qualifications of electors of such district. They shall not be interested in any contract entered into by said commission. Vacancies on such board shall be filled by the board until the next regular election of members of the board, when such vacancies shall be filled by election. Removal of residence from the park district by any member of the commission shall create a vacancy.

§ 5. POWERS OF COMMISSION.] The park commission shall have power:

1. To acquire by purchase, gift, devise, condemnation or otherwise, land within its territorial limits, or within two miles therefrom, for parks, boulevards and ways, and shall have sole and exclusive authority to maintain, govern, erect and improve the same.

2. To lay out, open, grade, curb, pave and otherwise improve any path, way or street, in, through, or around said parks and to construct, erect, build, maintain, manage, govern and erect any and all buildings, pavilions, play and pleasure grounds or fields

and such other improvements of a like character as may be deemed necessary.

3. To pass all ordinances necessary, requisite and needful for the regulation and government thereof, and to make, change and enforce any order with reference thereto.

4. To levy special assessments on all property specially benefitted by the purchase, opening, establishment and improvement of such parks, boulevards and ways or streets or ways about the same.

5. To appoint such engineers, surveyors, clerks and other officers and employes, including such police force as may be necessary and to define and prescribe their respective duties and authority and to fix their compensation.

6. To issue the negotiable bonds of the park district in a sum not to exceed two per cent of the value of the taxable property therein situated, for the sole and exclusive purposes of purchasing and acquiring lands for such parks, boulevards and ways, and for the permanent improvement thereof, including the erection and construction of buildings, pavilions, play and pleasure fields; provided, such bonds shall not bear a rate of interest to exceed six per cent; and provided, further, that upon the affirmative vote of the electors of such district as by law provided, such commission may be authorized to issue such bonds in an amount in the aggregate not to exceed five per cent of such assessed value.

7. To levy taxes upon all the property within said district for the purpose of maintaining and improving said parks, boulevards and ways and to defray the expenses of such board; provided, that such tax so levied shall in no year exceed the sum of five mills on each dollar of the taxable property within said district.

8. To establish building lines for all property fronting on any park, boulevard or way under the direction and control of such commission, and to control the subdivision and platting of property within four hundred feet thereof.

9. To borrow money in anticipation of taxes already levied to defray the expenses of the year and to issue therefor the notes or obligations of the district.

10. To connect any park or parks owned or controlled by it with any other park or parks, and for that purpose to select and take charge of any connecting street or streets or parts thereof, and the said park commission shall have sole and exclusive charge and control of such street or streets so taken for such purpose.

§ 6. MEETINGS, WHERE HELD. ORDINANCES.] The park commission shall hold a regular meeting on the first Tuesday of each month at such hour as it may by rule designate, and such special meetings as it may deem necessary. Special meetings may be called by the president and must be called by him upon the request in writing of two members of the board. The commission shall have power to adopt such rules of procedure as it may deem necessary. The powers of the commission shall be exercised by ordin-

ance unless otherwise provided. All ordinances shall be read twice and at least eight days shall intervene between the readings. They shall be adopted by yea and nay vote and shall be approved by the president and published in the official newspaper of the city and shall go into effect upon such publication. The enacting clause of all ordinances shall be as follows: "Be it enacted by the park commissioners of the park district of the city of ....." The yea and nay votes shall be taken on all propositions involving the expenditure of money, and levying of taxes or the issuance of bonds or other certificates of indebtedness. All contracts shall be let to the lowest responsible bidder after advertisement in the official newspaper of the city for three successive weeks, once in each week; provided, that such commission shall have the power to reject all bids. All contracts shall be in writing and signed by the president and clerk of the board and unless so executed shall be void. At no time shall the debt of the park district exceed five per cent of the taxable property within the district, according to the last preceding assessment. No bill, claim, account or demand against the district shall be audited, allowed or paid until a full itemized statement in writing properly verified shall be filed with the park commission. All claims against the park district arising out of negligence shall be in writing and verified by the claimant, and shall contain a full, clear and concise statement of the transaction out of which it is alleged to arise, giving time, place, extent of injury or damage, and shall be filed within thirty days from the date thereof with the clerk of the board. No action shall be maintained unless begun after thirty days and within six months from the date of the filing of the claim.

§ 7. POLICE MAGISTRATE TO HAVE JURISDICTION.] The police magistrate of the city shall have exclusive jurisdiction to try and determine all causes of action for violation of the rules or ordinances enacted by the board and the procedure therein with the right of appeal shall be as prescribed by general law.

§ 8. GENERAL LAW GOVERNS COMMISSIONERS.] In the issuing of bonds, warrants, certificates of indebtedness and in levying any tax or special assessment and in otherwise carrying out, enforcing or making effective any of the powers herein granted, the park commissioners and their officers and the park district shall be governed by and shall follow the laws enacted for the government of cities, except as herein otherwise specially provided.

§ 9. REPEAL.] Chapter 143 of the laws of North Dakota of 1905 is hereby repealed, but in so far as said law has not been held to be unconstitutional and void, this act, so far as consistent therewith, shall be held and construed to be a continuation of and not a repeal of such law.

§ 10. EMERGENCY.] Whereas, an emergency exists, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 2, 1907.

# PAROLE

## CHAPTER 180.

[S. B. No. 66—Pierce]

### PAROLE AND INDETERMINATE SENTENCES.

AN ACT to Establish a Parole System, and Providing for Indeterminate Sentences of Persons Convicted of Certain Crimes, and Prescribing the Duties of Officials in Connection Therewith.

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

§ 1. TERMS OF IMPRISONMENT IN THE PENITENTIARY.] Every person who shall be convicted of felony or crime punishable by imprisonment in the penitentiary, except treason, murder in the first degree, rape and kidnapping [shall] be sentenced to the penitentiary, and the court imposing such sentence may in its discretion refrain from fixing the limit or duration of the same, but in such cases, the term of such imprisonment shall not be less than one year, nor shall it exceed the maximum term provided by law for the crime of which the prisoner was convicted, making allowance for good time, as now or hereinafter provided by law. In all such cases the judgment of the court shall provide in substance for confinement in the penitentiary until released or paroled, but the judge of the district court, in passing sentence upon any person under twenty years of age, for any crime except treason, murder, rape and kidnapping, may in his discretion sentence such person to the state reform school during the minority of such person.

§ 2. OFFICIAL INFORMATION OF PRISONER'S CHARACTER AND HABITS.] It shall be the duty of the judge before whom any person is convicted and sentenced indeterminately to the penitentiary, and also of the state's attorney of the county in which such conviction is had, to file with the clerk of the district court an official statement of the facts and circumstances constituting and surrounding the crime whereof the prisoner was convicted, his age as near as can be ascertained, together with all other information accessible to them in regard to the career of the prisoner prior to the time of the committal of the crime of which he was convicted, relative to his habits, associates, disposition and reputation, and any other facts and circumstances which may tend to throw any light upon the question as to whether or when such prisoner may be capable of again becoming a law abiding citizen. It shall be the duty of the official court reporter, at the dictation of the judge

of the said court, or the state's attorney of said county, to write the official satements of the judge and state's attorney above referred to at the time of the conviction of the prisoner, and it shall be the duty of the clerk of the court to cause copies of such official statements to be attached to the commitment, with the copy of the judgment of the court at the time of issuing the same, and deliver the same, so attached, to the sheriff of the county for transmission to the institution to which the prisoner is committed.

§ 3. PERSONS CONVICTED AND SENTENCED PRIOR TO THE TAKING EFFECT OF THIS ACT MAY APPLY FOR BENEFITS OF THE SAME.] Any person who, prior to the taking effect of this act, may have been convicted of and sentenced for any crime except the crime of treason, murder in the first degree, rape and kidnapping, may apply to the board of pardons in the same manner as now provided by law for applications for pardons, and if upon investigation and a thorough hearing of all the facts, the board of pardons shall find that it is a case wherein the purpose of the law would have been best subserved by an indefinite sentence, the board may in its discretion make an order pursuant to such finding, and the clerk shall forthwith transmit to the warden of the penitentiary a certified copy of such order, and the warden shall file and make entry thereof, and thereafter such person shall have and be entitled to the same status as if originally sentenced under the provisions of this act.

§ 4. REPEAL. SAVING CLAUSE.] All acts and parts of acts in conflict with this act are hereby repealed. No part of this act, however, shall ever be construed to modify or annul, or in any way affect the validity of any conviction had, or sentence imposed prior to its taking effect, nor to modify any of the existing provisions of law relative to the punishment for crimes enumerated in section 1 of this act.

Approved March 19, 1907.

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## CHAPTER 181.

[S. B. No. 226—Leutz]

### REFORM SCHOOL PAROLE.

AN ACT for Paroling Inmates of the Reform School.

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

§ 1. PAROLE PERMITTED.] The board of trustees of the reform school is hereby empowered to parole persons committed to the reform school, or to the guardianship, control and custody of the trustees of said reform school, who at the time of commitment

to said school were under the age of sixteen years, and all those committed between the ages of sixteen and eighteen years, not convicted of a felony, and may establish rules and regulations under which such persons may go upon parole.

§ 2. WHEN ALLOWED.] No parole shall be granted to any person committed to said reform school, or to the guardianship, control and custody of the trustees of such reform school unless:

1. The superintendent of said reform school recommends such parole to the board of trustees.

2. At least four members of the board of trustees approve and indorse said recommendation.

3. There is some suitable person to receive, employ and care for the person so paroled, without expense to the state.

§ 3. RECOMMITTED.] Any person so paroled shall still be deemed to be under the guardianship and control of the board of trustees of said reform school and subject at any time until the expiration of the time for which he was committed to said reform school, to be taken into actual custody and returned to the reform school. The board of trustees is hereby fully empowered to enforce the rules and regulations made by it for the paroling of the inmates of said reform school, and, when satisfied that any person out on parole has violated any of such rules and regulations, may order that such person be taken into actual custody and returned to said reform school and detained therein until the expiration of the time of his commitment thereto as provided in the order of court committing him to said reform school, or is again paroled therefrom. The board shall enter in the record of its proceedings any such order, and a copy thereof certified by the secretary of the board may be delivered to any sheriff or other peace officer of the state, or an officer of the state reform school for service and return, and it shall be the duty of any such officer to receive the same and to apprehend and immediately return and deliver to the superintendent of said reform school any such person named in such order, and such person shall remain in such reform school until discharged or again paroled therefrom according to law.

§ 4. FEES.] The officer executing any such order of the board of trustees shall indorse on said order a return of his doings thereunder and deliver the same together with the person named therein to the superintendent of said school, and the superintendent shall give to such officer a certificate acknowledging the receipt of such person and said order and return. The fees of any such officer for executing any order of the board of trustees for the return of any person to the reform school shall be the same as provided by law for the taking of a person to said school under the order of the court.

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

§ 6. EMERGENCY.] There being no provision of law providing for the parole of inmates of the reform school, therefore, an emergency exists, and this act shall take effect and be in force immediately upon its passage and approval.

Approved March 8, 1907.

# PHARMACY

## CHAPTER 182.

[S. B. No. 28—Cashel]

### PRACTICE OF PHARMACY.

AN ACT to Regulate the Practice of Pharmacy, and Providing Penalties for Violating the Provisions Thereof.

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

§ 1. COMPOUNDING RESTRICTED.] No person other than a registered pharmacist, assistant registered pharmacist or a regularly licensed physician shall manufacture, compound, sell or dispense for medicinal use any drug, poison, medicine or chemical (except patent or proprietary preparations) or dispense or compound a prescription of a medical practicioner except as provided in this act.

§ 2. REGISTERED PHARMACISTS ASSISTANTS.] Every store, dispensary, pharmacy, laboratory, or office for the sale, dispensing or compounding of drugs, medicines or chemicals, or for the compounding or dispensing of prescriptions of medical practitioners shall be in charge of a registered pharmacist. A registered assistant pharmacist may be left in charge of a store, dispensary, pharmacy, laboratory or office for the sale, dispensing or compounding of drugs, medicines or chemicals or for the dispensing of prescriptions of medical practitioners only during the temporary absence of the registered pharmacist. No registered assistant shall conduct a pharmacy except during the temporary absence of the registered pharmacist in charge thereof. Every store or shop where drugs, medicines, or chemicals are dispensed or sold at retail, or displayed for sale at retail for medicinal purposes, or where prescriptions are compounded, shall be deemed a "pharmacy" within the meaning of this act. In every pharmacy a sign shall be posted in a conspicuous place showing the name of the registered pharmacist in charge thereof.

§ 3. BOARD OF PHARMACY, APPOINTMENT.] The state board of pharmacy shall consist of five registered pharmacists. The members of said board shall be appointed by the governor upon the recommendation of the North Dakota pharmaceutical association, and the persons so appointed shall be chosen from the members of said association. Except as provided in the next section the members of said board shall be appointed for a term of five years and until their successors are appointed and qualified.

§ 4. VACANCIES.] The three members of the present state board of pharmacy shall continue in office for the remainder of their respective terms, and the governor shall appoint two additional members, one for a term of four years and one for a term of five years. In case of a vacancy by death, resignation or removal the governor shall fill the vacancy by an appointment for the unexpired term.

§ 5. ORGANIZATION. BOND. MEETINGS.] At the first regular meeting of the board after the appointment and qualification of the additional members thereof provided by this act, and annually thereafter at the first regular meeting after the appointment and qualification of a new member for a full term the board shall elect a president, secretary and treasurer. The president and treasurer shall be chosen from the members of the board, but any suitable person whether a member of the board or not, may be chosen as secretary. Said officers shall respectively perform such duties as the board may prescribe. The secretary and treasurer shall each give a satisfactory bond to the state board of pharmacy in the sum of not less than two thousand dollars for the faithful performance of his official duties and the safe and proper care and disposal of all funds and property under his charge by the officer by and for whom the bond is given. The board shall hold at least two and not more than four meetings in each calendar year for the examination of applicants for registration, and it shall give at least thirty days' notice of the time and place of any meeting for the examination of applicants for registration, by publishing notice thereof in three pharmaceutical journals of general circulation in the state. It may hold such other meetings for the performance of its duties as may be necessary, and such meetings may be called by the secretary at the request of the president, or of any two members upon such notice to all the members as the board may prescribe by its rules and regulations or at such time and place as a majority of the members agree upon. In case of the death, removal or resignation of the president of the board or his absence from or refusal or inability to act at any meeting of the board, the senior member of the board present shall act as president. In case of the death, removal or resignation of the secretary or treasurer or the absence or refusal or inability of either to act, the board may choose another for the time being, or for the remainder of the year. The president, secretary and treasurer, or any of them, may be allowed such compensation for their services as such in addition to their pay as members as four-fifths of the members of the board shall determine.

§ 6. QUORUM. POWERS.] A majority of the board shall constitute a quorum for the transaction of any business. The board shall have power and it shall be its duty:

(a.) To cancel and revoke the certificate and registration of any registered pharmacist, or registered assistant pharmacist for incompetency, or who is addicted to any drug habit.

(b.) To examine and register as pharmacist and assistant pharmacist all applicants which it shall find to be entitled to such registration.

(c.) To prescribe rules and regulations for the guidance of its members, officers and employes, and to ensure the proper and orderly dispatch of its business.

(d.) To employ and pay such persons as it may deem necessary to inspect pharmacies in this state or investigate for the information of the board or to procure evidence in any proceeding pending before such board or in aid of any prosecution or action in any court commenced or about to be commenced by or against such board in relation to any matter in respect to which the board has any duty to perform.

(e.) To employ and pay counsel to advise the board, or to prosecute or defend any action or proceeding commenced by or against the board or pending before it.

(f.) The president of the board shall have the power to administer oaths to applicants for registration, and to any witness in any hearing, investigation or proceeding pending before such board.

§ 7. CERTIFICATE OF REGISTRATION, CANCELLED WHEN.] The certificate and registration of a pharmacist or assistant pharmacist shall not be revoked or cancelled until after a hearing before the board upon notice to the person accused and an opportunity to appear in person and by counsel and produce witnesses in his own behalf; and the notice of hearing must contain a copy of the complaint against him, which complaint must be in writing. The foregoing provisions of this section shall not apply to cases where a pharmacist or assistant pharmacist shall have been convicted in a court of general jurisdiction of an offense against any law, the violation of which is ground for cancellation of the certificate or registration, but in such cases a certified copy of the judgment of conviction filed with the board shall authorize the board to summarily cancel and revoke the certificate of the convicted pharmacist. The board shall prescribe rules and regulations not inconsistent with this act, to govern the procedure in proceedings before it to cancel a certificate or registration.

§ 8. FORMER CERTIFICATES IN FORCE.] The certificate of every pharmacist and assistant pharmacist whose certificate and registration as such is in force at the time this act takes effect shall remain in force for the period for which this certificate was issued but subject to the conditions and provisions of this act and may be renewed, cancelled or revoked and the holder shall be entitled to the

same privileges and be subject to the same conditions and penalties as if such certificate had been issued and such registration procured under this act; provided, however, that any offense committed or penalty or forfeiture incurred on account of any act or transaction before this act takes effect shall be punishable or recoverable according to the provisions of the law in force when such act was done, notwithstanding any express or implied repeal of such law by this act.

§ 9. RESTRICTION AS TO REGISTRATION.] After this act takes effect no person except those mentioned in the preceding section shall be registered or receive a certificate as a pharmacist or assistant pharmacist until he or she shall have complied with the conditions hereinafter provided.

§ 10. REGISTRATION WITHOUT EXAMINATION. WHEN.] The board may, without examination, register and issue a certificate as a pharmacist or assistant pharmacist to any person of good moral character who shall present to the board satisfactory evidence that he or she had before coming to this state been legally licensed as a pharmacist or assistant pharmacist in another state or foreign country, by the laws of which the requirements for such license with respect to qualifications are equivalent to the requirements of this act; provided, however, that it shall not be obligatory upon such board to recognize or accept the license, certificate or registration of such other state or foreign country as evidence of the applicant's qualifications unless the board is satisfied that such applicant is in fact qualified to be a pharmacist or assistant pharmacist in this state; and provided, further, that the board may deny recognition or acceptance of the license, certificate or registration of any state or foreign country which does not accord similar recognition to licentiates of this state.

§ 11. EXAMINATION FOR REGISTRATION.] Except as hereinafter provided, every applicant for registration as a pharmacist or assistant pharmacist must, before receiving a certificate from the board successfully pass such an examination as to his learning and professional qualifications the board shall prescribe.

§ 12. QUALIFICATIONS FOR REGISTRATION.] An applicant for registration as a pharmacist must, as a condition precedent to an examination therefor, present to and file with the board satisfactory evidence that he or she is over twenty-one years of age, and of good moral character; that he or she has had four years' exjerience in a reputable pharmacy under the instruction and supervision of a competent and reputable pharmacist; provided, however, if the applicant is a graduate of a college of pharmacy approved by the board, the time spent by such applicant in a regular course of study at such school not exceeding two years may be considered and allowed as part of the four years' experience required by this section; provided, further, that experience and study of pharmacy in any reputable hospital under the supervision and instruction of the resi-

dent interne, physician or physicians of such hospital shall be deemed equivalent to the experience and study in a pharmacy under the supervision of a registered pharmacist. Registration as a pharmacist by said board entitles the person so registered to membership in the North Dakota pharmaceutical association.

§ 13. EXAMINATION FOR ASSISTANT.] An applicant for examination and registration as an assistant pharmacist must as a condition precedent to the right to be examined present and file with the board satisfactory evidence that he or she is a person of good moral character over the age of eighteen years, and has had at least two years' experience in a reputable pharmacy under the instruction and supervision of a reputable pharmacist, or has been registered as an apprentice in pharmacy in this state for a period of two years. The board may, however, allow and consider as part of the two years' experience required of such applicant, such time, not exceeding six months, as shall have spent by the applicant in a regular course of study in a college of pharmacy approved by the board.

§ 14. FEES.] Each applicant for registration shall pay to the secretary the sum of five dollars before examination; provided, that in case of a failure to pass a satisfactory examination, he may be re-examined at any regular meeting of the board upon payment of a fee of three dollars.

§ 15. PREREQUISITIES TO EXAMINATION.] Any person having the educational qualifications sufficient to enable him to pass an entrance examination to the high schools of the state of North Dakota, or its equivalent, desiring to register as an apprentice in pharmacy, shall at the date of entering into his apprenticeship, file with the secretary of the state board of pharmacy a certificate, stating that he has entered into an apprenticeship, and stating his age, name and educational qualifications, and he shall at the same time file with the said secretary a certificate from his employer, who must be a regularly licensed and registered pharmacist of this state, which certificate shall set forth that the applicant has been employed by him as an apprentice in pharmacy, and that said applicant possesses to the knowledge of such registered pharmacist, education and qualifications which would enable him to pass the entrance examinations to the high schools of this state, or its equivalent; said certificates shall be accompanied by a fee of twenty-five cents, and thereupon it shall be the duty of said secretary to file the same and register said applicant as an apprentice and at the expiration of two years after such registration the said applicant shall be permitted to take the examination prescribed by the state board of pharmacy for assistant pharmacists upon the conditions imposed by the state board of pharmacy.

§ 16. CERTIFICATE. ISSUANCE OF.] The board shall cause to be issued to each pharmacist or assistant pharmacist whom it finds entitled thereto a certificate showing the date of issue and the fact that the person to whom issued is a registered pharmacist or assistant

pharmacist, as the case may be, his or her residence. The certificate shall be signed by a majority of the members of the board. Such certificate shall entitle the holder to act in the capacity stated therein for a period of one year, but may be renewed or the place of business designated therein be changed as hereinafter provided.

§ 17. REGISTER.] The secretary of the board shall keep a record or register in which in addition to such other matters as the board may require it to show he shall register each certificate issued and the facts appearing in such certificate and appropriate spaces shall be reserved in which to record any subsequent cancellation or renewal thereof or change therein.

§ 18. TEACHING OF PHARMACY.] No member of the board of pharmacy shall teach pharmacy in any of its branches, unless it be as a teacher in a public capacity, in a college of pharmacy, or to an apprentice duly registered with him.

§ 19. COMPENSATION OF BOARD.] The members of the board of pharmacy shall each be paid the sum of five dollars per diem for every meeting of the board which they attend, and all legitimate and necessary expenses incurred in attending the meetings of the board or in performing other official duties. Such expense shall be paid only from the monies received by the board under the provisions of this act, and no part of the salaries or other expenses of the board shall be paid from or out of the state treasury. Any monies remaining after the payment of the salaries and expenses herein provided for shall be held by the treasurer as a special fund for meeting the expenses of the board and of the annual meeting and report of the North Dakota pharmaceutical association, and such other necessary expenses that may be incurred by said association.

§ 20. ANNUAL REPORT.] The board shall in its annual report render to the governor of the state, and the North Dakota pharmaceutical association an account of all monies received and disbursed by it.

§ 21. RENEWAL FEES.] Every registered pharmacist, and every registered assistant pharmacist who desires to retain his registration on the books of the board of pharmacy in this state shall annually before the expiration of the first years' registration and on or before the first day of March in each year, pay to the secretary of the state board of pharmacy a renewal fee to be fixed by the board, in no case exceeding three dollars, in return for which fee a renewal certificate shall be issued. In case the certificate holder fails to pay the renewal fee as above provided within the time provided, then the secretary shall mail to the certificate holder a notice addressed to his last known place of residence, notifying the delinquent of his failure to obtain a renewal certificate. The certificate holder may then within thirty days after the date of mailing of said notice procure a renewal certificate upon payment of five dollars, but if he fails to do so his original certificate or renewal certificate, as the case may be, shall become void and the registry

thereof be cancelled. The board may, however, on application by the delinquent certificate holder authorize the issuance to him of a new certificate without examination upon payment of five dollars if satisfied that the applicant is a proper person to receive the same.

§ 22. CHANGE OF RESIDENCE. RECORD OF.] Every registered pharmacist, and assistant pharmacist shall within thirty days after changing his place of business as designated on the books of the board of pharmacy, notify the secretary of the board of his new place of business, and shall accompany the said notice with a fee of fifty cents. Upon receipt of said fee and the notice of change of place of business, the secretary shall make the necessary change in the register and issue a receipt for the said fee to the person sending it.

§ 23. PHYSICIANS' PRESCRIPTIONS TO BE FILED AND PRESERVED. Every registered pharmacist shall file, or cause to be filed, all physicians' prescriptions, or a copy thereof, compounded or dispensed in his pharmacy or store; they shall be preserved for at least two years, and he may furnish a copy of any prescription to the party presenting it on the request of such party only.

§ 24. FALSE REGISTRATION. PENALTY.] Any person who shall procure or attempt to procure registration, for himself or any other person under this act by making or causing to be made any false representations, or who shall falsely or fraudulently represent himself to be registered shall be deemed guilty of a misdemeanor and in addition to the penalty imposed by the court on conviction, shall, if he be a registered pharmacist or registered assistant pharmacist, have his registration cancelled.

§ 25. WHO EXEMPT.] Nothing in this act shall apply to, or interfere with any practitioner of medicine who is duly registered, as such, by the state board of medical examiners of this state, with supplying his own patients, as their physician, with such remedies as he may desire, nor does this act apply to the exclusively wholesale business of any dealer, nor do general dealers come under the provisions of this act so far as it relates to the keeping for sale of proprietary medicines in original packages and the simple household remedies; nor does this act apply to registered or copyrighted proprietary medicines registered in the United States patent office, nor to the manufacture of proprietary remedies or the sale of the same in original packages, by persons other than pharmacists, and this act shall not be construed to prohibit the sale, dispensing or compounding of drugs or medicines or physician's prescriptions in any established hospital to the patients therein by or under the direct supervision of a resident interne physician of such hospital.

§ 26. PENALTY.] Any proprietor of a pharmacy, who not being a registered pharmacist, shall fail or neglect to place in charge of such pharmacy a registered pharmacist, or any such proprietor who shall by himself, or any other person permit the compounding or dispensing of prescriptions, or the vending of drugs, medicines or

poisons, in his store or place of business, except by or in the presence and under the direct supervision of a registered pharmacist, or any person not being a registered pharmacist, who shall take charge of or act as manager of such pharmacy, or store, or who, not being a registered pharmacist, retails, compounds, or dispenses drugs, medicines or poisons, shall be guilty of a misdemeanor.

§ 27. TEMPORARY CERTIFICATE. HOW OBTAINED.] The secretary of the state board of pharmacy, or any member of said board on being requested by the secretary in writing may examine applicants orally or in writing, and issue a temporary certificate to practice pharmacy, which shall authorize such practice and be valid until the next meeting of the board. Only one temporary certificate shall be issued to the same applicant, and no temporary certificate shall be issued to any person whose application has been acted on by the board. The applicant for a temporary certificate shall pay to the person making the examination the same fee as provided by this act for an examination by the board, and such fees when paid shall be for the benefit of the said board and shall be delivered to the secretary by the person making the examination.

§ 28. RECORD OF POISONS.] Every person who shall sell, furnish or deliver to another at retail any arsenic or its preparations, corrosive sublimate, white precipitate, red precipitate, biniodide of mercury, cyanide of potassium, hydrocyanic acid, strychnia and all other poisons, vegetable alkaloids and their salts, essential oil of bitter almonds, opium or its preparations, except paregoric and other preparations of opium with less than two grains to the ounce, shall before delivering the same, enter, or cause to be entered in a book kept for that purpose, the date of sale, the name and address of the person to whom sold or delivered, the name, quantity and quality of the articles sold and the name of the dispenser, and shall affix to the bottle, box or vessel or receptacle containing the same, a label showing the name of the contents, the word "poison" and his name and place of business.

§ 29. SAME.] Every person who shall sell, furnish or deliver to another at retail, any aconite, belladona, colchicum, conium, formaldehyde, nux vomica, henbane, savin, ergot, cotton root, cantharides, creosote, digitalis and their pharmaceutical preparations, croton oil, chloroform, chloral hydrate, sulphate of zinc, mineral acids, carbolic acid and oxalic acid, shall before delivering the same affix to the bottle, box, vessel or package containing the same, a label showing the name of the contents, the word "poison" and his name and place of business; provided, however, that any storekeeper may sell the drugs known as formaldehyde and paris green in unbroken packages.

§ 30. COCAINE.] No sale of cocaine may be made by any person except upon the written prescription of a licensed physician, dentist or veterinary surgeon, and any wilful violation of this section shall be punished on conviction as provided in this act for violations

thereof, and in addition, if the person found guilty shall be a registered pharmacist or registered assistant pharmacist, his registration and license may be cancelled.

§ 31. PENALTY FOR VIOLATION.] Any person who shall willfully violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall, unless otherwise provided in this act, be punished by a fine of not less than fifty dollars and not more than two hundred dollars together with the costs of the prosecution, and in all cases of prosecution under this act, the costs of securing the evidence, including the costs of traveling and other necessary expenses of members of the board of pharmacy or any inspector appointed by the said board, in obtaining the evidence and securing the conviction, shall be deemed to be costs of the prosecution and taxed to the defendant.

§ 32. COSTS IN PROSECUTION.] All costs and expenses collected in prosecutions under this act except court costs, fees of officers and witness fees shall be paid to the secretary of the state board of pharmacy.

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

§ 34. EMERGENCY.] Whereas, an emergency exists, in that there is no adequate law in this state governing the practice of pharmacy, this act shall be in force from and after its passage and approval.

Approved March 15, 1907.

# POOR

## CHAPTER 183.

[H. B. No. 11—Duncan]

### RESIDENCE OF POOR.

AN ACT to Amend Section 1854 of the Revised Codes of 1905, Relating to Residence of the Poor.

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

§ 1. AMENDMENT.] Section 1854 of the revised codes of 1905 is amended to read as follows:

§ 1854. RESIDENCE ACQUIRED. MARRIED WOMEN AND CHILDREN.] Residence may be acquired in any county so as to oblige such county to relieve and support the persons acquiring such residence in case they are in need of relief, as follows:

1. The residence of a married woman follows that of her husband if he has any within the state, otherwise her own at the time of her marriage, and if she then had any residence it shall not be lost or suspended by the marriage; and in case the wife shall be removed to the place of her residence, and the husband shall need relief, he shall receive it in the place where his wife shall have her residence.

2. Legitimate children shall follow and have the residence of their father if he has any within the state, until they gain a residence of their own, but if the father has no residence they shall in like manner follow and have the residence of their mother if she has any.

3. Illegitimate children shall follow and have the residence of their mother at the time of their birth, if she then has any within the state; but neither legitimate nor illegitimate children shall gain a residence by birth in the place where they were born, unless their parent or parents had a residence therein at the time.

4. Each male person and each unmarried female over the age of twenty-one years, who shall have resided one year continuously in any county in this state, shall thereby gain a residence in such county. Each minor whose parents, and each married woman whose husband has no residence in this state, who shall have resided one year continuously in any county in this state, shall thereby gain a residence in such county. Every person who has resided one year continuously in the state, but not in any one county, shall have a settlement in the county in which he has longest resided within such year. The time during which a person has been an inmate of a hospital, poorhouse, jail, prison, or other public institution and each month during which he has received relief from the pood fund of any county, shall be excluded in determining the time of residence hereunder. Every minor not emancipated and settled in his own right shall have the same settlement as the parent with whom he has last resided.

5. Each minor who shall be bound as an apprentice to any person shall immediately upon such binding, if done in good faith, thereby gain a residence where his master has a residence.

6. Each residence when once legally acquired shall continue until it is lost or defeated by acquiring a new one in this state, or by voluntary absence from the county in which such residence had obtained for one year or more; and upon acquiring a new residence, or upon the happening of such voluntary absence, all former residence shall be defeated and lost, and the provisions of this section shall apply to cases of residence begun to be acquired or lost or defeated, as well heretofore as hereafter.

§ 2. EMERGENCY.] Whereas, under the provisions of the present law residence may be acquired by such persons within ninety days, an emergency exists and this act shall take effect and be in force from and after its passage and approval.

Approved March 13, 1907.

# POULTRY ASSOCIATION

## CHAPTER 184.

[H. B. No. 211—Bergum]

### STATE POULTRY ASSOCIATION.

AN ACT to Provide an Appropriation for the Payment of Premiums and Awards by the North Dakota State Poultry Association, and to Provide for the Establishment of a State Poultry Association.

*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 three hundred dollars annually, to be expended by the North Dakota poultry association in payment of premiums and special awards in connection with its annual exhibits.

§ 2. ANNUAL EXHIBITION.] For the purpose of promoting, improving and increasing the poultry industry, an annual exhibition shall be held subject to the conditions hereinafter named.

§ 3. CONDITIONS TO BE COMPLIED WITH.] The present North Dakota poultry association, organized under the general laws of this state in relation to corporations, is hereby created as the North Dakota state poultry association; provided, however, that the state shall never become liable for any of the debts or liabilities of said association. The association shall adopt and file with the secretary of state an irrepealable by-law consenting, and providing that its board of directors shall consist of ten persons; that the commissioner of agriculture and labor shall ex-officio, constitute one member of said board of directors.

§ 4. APPOINTMENT AND DUTIES OF EXECUTIVE COMMITTEE.] The board of directors of such institution shall appoint an executive committee which shall keep an accurate account of the expenditures of all moneys appropriated to it by the state and all other receipts and expenditures and shall collect all information in their power in relation to the poultry industry in the state, and report the same, together with a statement of their doings, to the governor on or prior to the first day of January each year following the holding of the annual exhibition, and by the governor laid before the legislative assembly. All moneys hereby appropriated shall be paid over to the treasurer of the association on the order of the president, attested by the secretary.

Approved March 13, 1907.

# PRINTING

## CHAPTER 185.

[S. B. No. 83—LaMoure]

### PUBLIC PRINTING.

AN ACT Regulating Public Printing and Binding, and Prescribing the Duties of Public Boards and Officials in Relation Thereto.

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

§ 1. AMENDMENT.] Section 2282 of the revised codes of 1905 is hereby amended to read as follows:

§ 2282. PUBLIC PRINTING TO BE DONE IN THE STATE. VOUCHER FOR PRINTING, WHAT TO CONTAIN.] All state, county and other public printing, binding and blank book manufacturing, blanks and other printed stationery shall be done only by established and qualified printing and publishing houses that shall have been established and in continuous business in this state not less than one year, except as in this section otherwise provided, and where practicable shall be awarded to established institutions in the county for which such printing is required; provided, that the rates charged for such printing, binding, blanks and other supplies shall not exceed [by] more than fifteen per cent the sum or sums the same class and quality of work can be secured for from publishing houses outside the state. In case any board or official empowered to secure public printing and binding as provided herein, shall ascertain that there exists any combination, agreement or understanding by and between two or more publishers or publishing houses in this state, directly or indirectly fixing the prices to be charged for the printing mentioned in this section, or where prices in excess of the maximum rates prescribed herein are charged, then and in that event the provisions of this section shall not apply and officers and boards empowered to secure public printing, in relation to which any such combination, agreement or understanding as mentioned herein exists, from publishing houses outside the state. Every voucher for public printing and binding mentioned in this section shall have thereon or attached thereto a duly verified affidavit setting forth that the prices charged are reasonable and just and in accordance with law; that no agreement, combination or understanding exists with any other person, firm or corporation in the printing and publishing business, fixing the charges therein for such printing and binding, and that no

agreement or understanding exists by which a division of any portion of the amounts charged has been or is to be made, either directly or indirectly, with any board, or member thereof, or any person or official authorized or empowered to secure public printing mentioned in this section. Any person, firm or corporation violating the provisions of this section shall be guilty of a misdemeanor.

§ 2. EMERGENCY.] Whereas, an emergency exists in that there is now no adequate law covering the provisions of this act, therefore this act shall take effect from and after its passage and approval.

Approved March 19, 1907.

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## CHAPTER 186.

[S. B. No. 244—LaMoure]

### PRINTING APPROPRIATION.

AN ACT Prescribing the Duties and Authority of the Commissioners of Public Printing, and Making an Appropriation for Public Printing and Binding.

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

§ 1. AMENDMENT.] Section 76 of the revised codes of 1905 is hereby amended and re-enacted to read as follows:

§ 76. PRINTING ACCOUNTS KEPT BY SECRETARY OF STATE. APPROPRIATION.] All accounts for printing and binding, required for the legislative assembly, or any officer or department of the state government, shall be certified to 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 all such printing and binding as may be required for the various state offices and departments. 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 printing 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. A sufficient sum is hereby appropriated out of the state treasury, not otherwise appropriated, to pay for all public printing and binding heretofore ordered by the state, and hereafter to include legislative printing, said amount not to exceed thirty thousand dollars annually.

§ 2. EMERGENCY.] Whereas, it has been the custom heretofore to charge legislative printing up as legislative expense instead of public printing, thus decreasing the apparent amount of cost of public printing and wrongfully increasing the expense account of the legislative assembly, an emergency exists, and this act shall take effect from and after its passage and approval.

Approved March 2, 1907.

# PROHIBITION

## CHAPTER 187.

[S. B. No. 110—McLean]

### TEMPERANCE COMMISSIONER.

AN ACT to Provide for the Better Enforcement of the Laws Against the Manufacture and Sale of Intoxicating Liquors, and to Repeal Section 9395 of the Revised Codes of 1905, Being Chapter 39 of the Session Laws of 1903.

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

§ 1. APPOINTMENT. CLERK.] The governor is hereby authorized to appoint a capable citizen of this state to be enforcement commissioner, who shall be paid a salary of two thousand dollars per annum and actual expenses, which salary shall be payable in four quarterly payments on the first days of January, April, July and October. Said enforcement commissioner shall be provided with an office at the state capitol with suitable furniture, stationery and other necessary facilities for transacting the business of his office, and he may employ a clerk at the expense of the state, which clerk may be paid at a salary not exceeding nine hundred dollars per year, payable in equal monthly installments.

§ 2. QUALIFICATIONS AND POWERS.] Said appointee shall be an attorney at law and shall be known as enforcement commissioner and with the advice and under the direction of the governor shall have and is hereby authorized to exercise in any part of this state, all of the common law and statutory powers of state's attorneys in their respective counties in the enforcement of the law against the manufacture and sale of intoxicating liquors.

§ 3. DEPUTY COMMISSIONER.] Said commissioner may appoint one deputy commissioner, if he shall consider it necessary, who shall also be an attorney at law. The deputy commissioner shall

have the same powers as are given to the enforcement commissioner. Said deputy commissioner shall be appointed in writing signed by said enforcement commissioner, which appointment shall be recorded in the office of said enforcement commissioner, and such deputy commissioner shall hold office during the pleasure of said enforcement commissioner. Upon being discharged he shall immediately surrender his certificate of appointment and all papers and other property relative to his office.

§ 4. SPECIAL ENFORCEMENT SHERIFFS.] The enforcement commissioner shall appoint such number of special enforcement sheriffs as in his judgment may be necessary, who shall have throughout the state all the common law and statutory powers of sheriffs in their respective counties in the enforcement of the law against the manufacture and sale of intoxicating liquors; such special sheriffs shall be appointed in writing signed by said enforcement commissioner, which appointment shall be recorded in the office of said enforcement commissioner, and they shall hold office during the pleasure of said enforcement commissioner. Upon being discharged, each shall immediately surrender his certificate of appointment and all papers and other property relative to his office.

§ 5. OFFICIAL BONDS.] The said enforcement commissioner, deputy commissioner and special sheriffs shall be sworn and give bonds to the state for the faithful discharge of their duties, the said enforcement commissioner in the sum of five thousand dollars, the said deputy commissioner in the sum of twenty-five hundred dollars, and said special sheriffs in the sum of two thousand dollars, all of which bonds shall be approved by the governor as to sufficiency and by the attorney general as to form, and such bonds and the oaths of such officers shall be deposited in the office of the secretary of state.

§ 6. EXPENSES, HOW PAID.] It shall be the duty of said deputy commissioner and special sheriffs to exercise all the powers herein conferred when, where, and as directed by said enforcement commissioner, and they shall be paid all the actual expenses occasioned by the performance of such duty and in addition thereto the said deputy commissioner shall be paid the sum of five dollars per day and the said special sheriffs each the sum of three dollars per day, and they shall at such time as may be fixed by the enforcement commissioner present their accounts for approval to him and after approval the same shall be subject to payment by the state from money in the treasury not otherwise appropriated.

§ 7. TAXATION OF COSTS.] There shall be taxed for said enforcement commissioner and said deputy commissioner, as costs in all actions in which either of them appear, the same fees as are allowed to be taxed for state's attorneys under the provisions of the laws of this state prohibiting the unlawful manufacture and sale of intoxicating liquors, and there shall be taxed for said special sheriffs the same fees as sheriffs and witnesses have here-

tofore been entitled to receive, all of which fees shall be paid directly to the state treasurer.

§ 8. POWERS WHERE LOCAL AUTHORITIES FAIL TO ENFORCE LAW.] The said enforcement commissioner, upon being satisfied that the local authorities fail to enforce the law against the manufacture and sale of intoxicating liquors in any county, city, village or town of this state, shall, subject to the limitations of section two hereof, with the aid, assistance and co-operation of the said deputy commissioner and one or more of such special sheriffs, enforce said laws.

§ 9. LOCAL OFFICERS NOT RELIEVED OF DUTY.] Nothing in this act shall in any way relieve the sheriffs or the municipal officers of states, towns and villages or the state's attorney for any county of the duties devolving upon them for the enforcement of the law against the manufacture and sale of intoxicating liquors.

§ 10. REMOVAL FROM OFFICE.] Whenever in the judgment of the governor said enforcement commissioner is negligent in the performance of his duty, it shall be the duty of the governor, and he is hereby authorized to remove said enforcement commissioner from office.

§ 11. OFFICE SUSPENDED, WHEN.] Whenever in the judgment of the governor the enforcement commissioner is no longer necessary, he is authorized to remove him from office, and the office shall thereby be suspended until the governor of this state deems his services are again required.

§ 12. REPEAL.] Section 9395 of the revised codes of 1905, being chapetr 39 of the session laws of 1903, is hereby repealed.

§ 13. APPROPRIATION.] There is hereby appropriated the sum of eight thousand dollars out of any funds in the treasury not otherwise appropriated, to defray the expense of carrying out the provisions of this act.

§ 14. EMERGENCY.] Whereas, an emergency exists in that better provisions are necessary for the enforcement of the laws of this state against the unlawful manufacture and sale of intoxicating liquors, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 13, 1907.

## CHAPTER 188.

[H. B. No. 190—Haugen]

### SEIZURE OF INTOXICATING LIQUORS.

AN ACT Providing for the Seizure and Confiscation of Intoxicating Liquors Imported into the State of North Dakota in Violation of Law.

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

§ 1. PEACE OFFICERS SEIZE WITH OR WITHOUT WARRANT.] Whenever any peace officer of the state of North Dakota has reasonable grounds to believe that intoxicating liquor has been imported into the state of North Dakota for the purpose of sale as a beverage in violation of law, and that such liquor so imported is then stored at or in any place in any city, town, village, township or county in the jurisdiction of such peace officer, it is hereby made his duty to seize such liquor with or without a warrant, and if seized without a warrant, to invoice and keep the same in his custody until finally disposed of as hereinafter provided.

§ 2. PROCEDURE WHERE SEIZURE IS MADE WITHOUT WARRANT.] Whenever any liquor has been seized without a warrant, as provided in section one hereof, the officer so seizing shall immediately invoice the same, and file a copy of such invoice with some police magistrate or justice of the peace within the county in which the seizure was made, and at the same time file with such magistrate his information on oath setting out the fact of such seizure, a description of the place from which said property was taken, the name of the owner of the liquor seized, if known to him, if not, the name of the person in whose possession it was found, if known, and stating that to the best knowledge, information and belief of the informant, the liquor seized was unlawfully imported into this state with intent to be sold herein as a beverage, and praying judgment that the liquor so seized be destroyed as now provided by law in cases of seizure under section 9368, revised codes 1905. Thereupon, it shall be the duty of the magistrate or justice of the peace before whom such information is filed to cause notice to be served upon the owner of any such liquor seized, if known, or upon the person in whose possession it was found, if known, or upon the agent of any such owner, if known, informing such owner, agent or person in whose possession it was found of the seizure, and that such seizure was made on the grounds that the liquor so seized had been imported into this state in violation of the prohibitory law for the purpose of being sold as a beverage, and fixing a date for the hearing and trial not more than thirty days or less than ten days after the service of such notice. If at

the trial it shall be found that the liquor so seized was imported into this state in violation of the law, the court shall order the destruction thereof in the manner now provided by law in seizures under search warrants, and the officer making such seizure and carrying out the orders of such court shall be entitled to the same fee as for service of a search warrant under the provisions of chapter 65, revised codes of 1905.

§ 3. UNUSUAL QUANTITY PRESUMPTIVE EVIDENCE.] Proof of the finding of such intoxicating liquors stored in unusual quantities shall be presumptive evidence that such liquor was imported for such purpose in violation of law.

§ 4. DUTY OF MAGISTRATE AND STATE'S ATTORNEY.] Any magistrate or justice of the peace with whom the information has been filed as herein provided, shall immediately notify the state's attorney of his county of the filing of such information, and thereupon it shall be the duty of said state's attorney to make careful investigation of the facts, and if it shall reasonably appear that such liquor was imported into this state in violation of law, and the person causing the same to be imported or importing the same is within the state, he shall cause the arrest and prosecution of such person under the provisions of chapter 65, revised codes of 1905.

§ 5. EMERGENCY.] An emergency is hereby declared to exist, and this act shall take effect and be in force from and after its passage and approval.

Approved March 13, 1907.

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## CHAPTER 189.

[H. B. No. 195—Haugen]

### GOVERNMENT LIQUOR LICENSE.

AN ACT Providing for the Publication and Registration of Special Tax Receipts or Licenses from the Government of the United States to Sell Distilled, Malt and Fermented Liquors, Issued to Persons in North Dakota, the Payment and Collection of Registration Fees and Publication Fees, Regulating the Posting and Exhibiting of Such Tax Receipts or Licenses, Prescribing the Duties of Officials and Owners and Lessors of Property in Relation Thereto, Prescribing Penalties for Failure to Perform the Duties Prescribed and Other Regulations Pertaining to the Sale of Intoxicating Liquors.

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

§ 1. LIQUOR LICENSE. TAX RECEIPT MUST BE REGISTERED.] Every receipt, stamp or license showing payment of the special tax levied under the laws of the United States upon the business of

selling distilled, malt or fermented liquor, issued to or held by any person, firm or corporation in this state shall be registered and published as in this act required.

§ 2. NOTICE TO BE PUBLISHED. CONTAINS WHAT.] Immediately upon posting or displaying the special tax receipt or license mentioned in section one of this act as required under government regulations, it shall be the duty of the person in whose name such tax receipt or license is issued, to cause to be published for three successive weeks in the official newspapers of the county and for the same period in the official newspaper of the city, if within an incorporated city, a notice which shall contain the following information: Name of person to whom the government tax receipt or license is issued; date of special tax receipt or license; description of property where said tax receipt or license is posted, and, if within an incorporated city, the number of the lot and block and street number and setting forth specifically the room, building or place where said tax receipt or license is posted; the name of the owner and the name of the lessor of the property in which said tax receipt or license is posted. Upon discontinuance of business or removal of the special tax receipt or license mentioned in section 1 of this act to another building or place, a similar notice containing the information prescribed in this section, shall be published in the same manner as prescribed herein, and setting forth further the fact of removal, giving date and description of place to which such removal is made as fully as in the original notice.

§ 3. COPY OF RECEIPT FILED WITH AUDITOR.] It shall be the further duty of any person to whom a tax receipt or license from the government of the United States is issued, as mentioned in section 1 of this act, to file a duly authenticated copy of the same before or immediately upon posting, if in an incorporated city with the city auditor, otherwise with the county auditor of the county and pay a fee for the filing thereof of ten dollars, which fee shall be turned into the general fund of the city or county as the case may be.

§ 4. AUDITOR PUBLISHES LIST OF LICENSES.] The city auditor, if in an incorporated city, or county auditor, if not within an incorporated city, shall be required to publish in the official newspaper of the city and each of the official newspapers of the county the first week in each month a list of all such tax receipts or licenses filed during the previous month, such notice to be published one week in each newspaper.

§ 5. FEES FOR PUBLICATION. COPY POSTED.] The fee for publication of notices required under this act shall be the same as allowed by law for publication of other legal notices and the publisher may require the fee for such publication to be paid in advance. Upon the expiration of the publication required by this act the publisher or manager of the newspaper in which said notice is published shall make an affidavit of publication with a copy of

the advertisement attached thereto, together with the copy of notice or advertisement referred to herein shall be posted and remain posted at all times with the tax receipt or license referred to in section 1 of this act.

§ 6. OWNER OF PREMISES MUST PUBLISH, WHEN. PENALTY FOR FAILURE.] In case the person to whom the tax receipt or license referred to in section 1 of this act shall be issued, shall fail to cause to be published the notice required by this act, it shall be the duty of the owner or lessor of the premises whereon or wherein the tax receipt or license from the government of the United States referred to in section one of this act shall be posted, to cause such advertisement to be published as in this act required and if such owner or lessor shall knowingly fail to do so he shall be guilty of a misdemeanor.

§ 7. DUTY OF OFFICERS.] It shall be the duty of every sheriff, deputy sheriff, constable, mayor, marshal, police judge and police officer of any city or town having knowledge of any violation of the provisions of this act to notify the state's attorney of the fact of such violation and to furnish him the names of any witnesses within his knowledge by whom such violation can be proven. If any such officer shall fail to comply with the provisions of this section he shall be guilty of a misdemeanor and upon conviction, in addition to the punishment therefor prescribed by law, shall forfeit his office. For failure or neglect of official duty in the enforcement of this act any of the city or county officers herein referred to may be removed by civil action.

§ 8. DUTY OF COUNTY AUDITOR.] It shall be the duty of the county auditor of each county to apply to the internal revenue department of the government of the United States the first week in each month for a list of all special tax receipts or licenses mentioned in section 1 of this act issued to persons within his county, naming the persons, date and places, and the same shall be immediately published one week in each of the official newspapers of the county and city. The cost of procuring such information, upon filing of a duly verified voucher, shall be paid by the county as other county expenses are paid.

§ 9. PENALTY.] Failure on the part of any person to comply with the provisions of this act shall constitute a misdemeanor.

§ 10. EMERGENCY.] Whereas, it is desirable that the publicity required by this act shall begin as soon as possible, an emergency exists and this act shall be in force from and after its passage and approval.

Approved March 13, 1907.

## CHAPTER 190.

[H. B. No. 120—Moore]

### AFFIDAVIT FOR SEARCH WARRANT.

AN ACT to Amend Chapter 65 of the Penal Code of the Revised Codes of 1905 of the State of North Dakota, Relating to the Enforcement of the Prohibition Law.

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

§ 1. CONTENTS OF AFFIDAVIT. SEARCH WARRANT.] If any person shall make an affidavit before any person entitled to administer an oath, setting forth the fact that to the personal knowledge of the person making the affidavit that intoxicating liquors of any kind are being kept or are present upon certain premises, particularly describing such premises, and further stating that affiant verily believes that such intoxicating liquors are in unusual quantities, or are kept upon said premises for the purpose of barter and sale for use as a beverage contrary to law, and further stating the name of the person or persons keeping said intoxicating liquor or having such intoxicating liquor under their control, if known to affiant, and if unknown, stating the fact, and further stating the name of the person or persons who are in possession and control of the said premises, to the best knowledge, information and belief of affiant, and said affidavit setting forth the foregoing facts shall be filed with any justice of the peace, police magistrate or other magistrate having jurisdiction, together with the affidavit of the state's attorney that to the best of his knowledge, information and belief the facts set forth in such affidavit are true and which said affidavit of the state's attorney shall further request the said magistrate to issue a search warrant against said premises, said magistrate shall issue a search warrant directed to the proper officer, commanding him to search the premises described in the above affidavit, and to seize all intoxicating liquors, and all vessels or bottles containing the same or which shall have been used for the reception of intoxicating liquors of any kind, and take the same into his custody, to abide the further order of the court.

Approved March 12, 1907.

## CHAPTER 191.

[H. B. No. 199—Nelson of Traill]

### INTOXICATING LIQUOR DEFINED.

AN ACT to Amend Section 9366 of the Revised Codes of 1905, Same Being Section 7598 of the Revised Codes of 1899, Defining What Shall Be Considered and Held To Be Intoxicating Liquors.

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

§ 1. AMENDMENT.] Section 9366 of the revised codes of 1905 (same being section 7598 of the revised codes of 1899), be and the same is hereby amended to read as follows:

§ 9366. INTOXICATING LIQUORS DEFINED.] All spirituous, malt, vinous, fermented or other intoxicating liquors or mixtures thereof, by whatsoever name called, that will produce intoxication, or any mixtures of such liquors as, retaining the alcoholic principle or their intoxicating qualities as a distinctive force in the compound, may be used as a beverage and become a substitute for the ordinary intoxicating drinks, or any liquors or liquids which are made, sold or offered for sale as a beverage and which shall contain coculus indicus, copperas, opium, cayenne pepper, picric acid, Indian hemp, strychnine, tobacco, darnal seed, extract of logwood, salts of zinc, copper or lead, alum or any of its compounds, methyl alcohol or its derivatives, amyl alcohol or any extract or compound of any of the above ingredients, shall be considered and held to be intoxicating liquors within the meaning of this chapter.

Approved March 12, 1907.

## CHAPTER 192.

[S. B. No. 78—Pierce]

### SOLICITING ORDERS FOR LIQUORS FORBIDDEN.

AN ACT to Prohibit the Soliciting of Orders for the Future Delivery Without this State of Intoxicating Liquors to be Transported Into this State to be Used or Sold in Violation of the Laws Thereof, and Providing a Penalty for Its Violation.

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

§ 1. UNLAWFUL.] It is hereby declared to be unlawful for any person to knowingly solicit or procure from, or to aid in soliciting or procuring from any person within this state, not a druggist hold-

ing a permit authorizing the sale of intoxicating liquors, any order, direction or instruction providing for the delivery at any place without the state of North Dakota, of any spiritous, malt, vinous, fermented or other intoxicating liquors, knowing or having reasonable cause to believe that if so delivered the same will be transported to this state and be used or sold therein in violation of the laws thereof.

§ 2. PENALTY.] Any person violating the provisions of section 1 of this act shall for the first offense be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than two hundred nor more than one thousand dollars, and be imprisoned in the county jail not less than ninety days nor more than one year, and for every succeeding offense shall be deemed guilty of a felony, and be punished by imprisonment in the penitentiary not exceeding two years.

Approved March 8, 1907.

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## CHAPTER 193.

[H. B. No. 63—Haugen]

### OWNER OF BUILDING LIABLE FOR UNLAWFUL USE.

AN ACT Prescribing a Penalty for Letting any Building or Portion of any Building, Knowingly, for the Purpose of Unlawful Dealing in Intoxicating Liquors.

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

§ 1. OWNER LIABLE. PENALTY. IF PUBLIC OFFICER, REMOVED.] Every owner, agent or other person, who, directly or indirectly, lets any building or portion of any building knowing that it is intended to be used for any purpose declared punishable by the provisions of chapter 110 of the penal code of the revised codes of North Dakota of 1895, commonly known as the "prohibition law," or who otherwise permits any building or portion of a building to be so used, is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than two hundred nor more than one thousand dollars, and by imprisonment in the county jail not less than ninety days nor more than one year, and in addition thereto, if such person be a public officer, he shall forfeit his right longer to hold such public office or offices, and the court before whom such conviction is had shall order and adjudge such forfeiture.

§ 2. EMERGENCY.] Whereas, the enforcement of the prohibition law will be greatly facilitated by this act, therefore an emergency exists and this act shall be in force and effect from and after its passage and approval.

Approved March 12, 1907.

# PUBLIC SERVICE COMMISSION

## CHAPTER 194.

[S. B. No. 340—Pierce and Koffel]

### PUBLIC SERVICE INQUIRY COMMISSION.

### A JOINT RESOLUTION.

WHEREAS, Much time and labor has been fruitlessly expended and much expense in like manner incurred by the tenth legislative assembly in its endeavors to prepare and enact laws calculated for the better, safer and more efficient regulation of the operation of public service corporations within the state, and to fairly and equitably adjust and regulate the charges and schedules which should be made and adopted by such public service corporations in the performance of their duties as such; and

WHEREAS, It is manifest that the greatest hindrance to the enactment of such laws lies in the lack of knowledge or information on the part of the legislative assembly touching the actual cash value of the properties of such public service corporations, used in the transaction of their various lines of business, their capitalization and bonded indebtedness, their earnings and expenses, properly creditable to and chargeable to business done within the state of North Dakota; and

WHEREAS, It is manifestly the desire and intent of the legislative body to avoid expensive experiments, and to enact such just, equitable and efficient laws as will encourage the investment of capital and the extension of development of the state and of the public service corporations therein and at the same time provide adequate compensation for adeqate service, no more and no less; now, therefore,

*Be It Resolved by the Legislative Assembly of the State of North Dakota:*

§ 1. COMMISSION CREATED.] A special commission is hereby created to be known as "the public service inquiry commission," to consist of the governor, the president of the senate and the speaker of the house of representatives of the tenth legislative assembly, which commission shall exist until the convening of the eleventh legislative assembly unless sooner dissolved by law.

§ 2. DUTIES.] The duties of such commission shall be to ascertain and report to the eleventh legislative assembly, in the form of an itemized, detailed report:

(a) The actual cash value of all property, real and personal, within and without the state of North Dakota (separately stated), of all railroad, steamboat, sleeping car, refrigerator or other special car corporations, express, telegraph and telephone corporations, doing business within the state.

(b) The mileage of railway, telephone and telegraph lines of such corporations within the state, and separately elsewhere.

(c) The capitalization and bonded indebtedness of such corporations.

(d) Their gross earnings in detail, including in this, not only business beginning and ending within the state, but the just and equitable share or proportion of interstate and other business which should in the opinion of the commission be credited to the operation of their lines within the state.

(e) Their expense of operation and fixed charges separately, and such proportion thereof as should be justly and equitably charged against their earnings as herein specified.

(f) A deduction showing the net cost per mile of transporting the different classes of property, persons and communications.

(g) The nature and cause of accidents and interruptions of service, and of the inefficiency thereof where such inefficiency existed, and remedies therefor.

(h) The inquiry, investigations and deductions to cover, extend over, and be made up from the experience of the five years next preceding the making of the report of the commission.

§ 3. POWERS OF COMMISSION.] Such commission, and the several members thereof, are hereby empowered to administer oaths, to issue subpenas and to compel the attendance of witnesses and the production of books, papers and records, and to punish for contempt in case of refusal of any person to comply with its orders or requirements.

§ 4. ORGANIZATION.] Such commission shall meet for organization at such time and place as the governor may designate, adopt such rules and regulations as may be necessary and proper for the prompt and orderly conduct of its business and may hold its sessions at such times and places and under such regulations as it may from time to time decide, but its sessions during the biennial period shall not exceed one hundred days in all.

§ 5. DUTY OF ATTORNEY GENERAL.] The attorney general shall be the legal advisor and counselor of such commission and it shall have the power to employ a stenographer or reporter and such other assistance as in its judgment may be required.

§ 6. COMPENSATION.] The members of said commission shall serve without other compensation than that now allowed them by law, but shall be allowed and paid the sum of ten dollars each per diem to cover and in lieu of all personal expenses while actually engaged in the sessions of said commission and while going to and returning from the same.

§ 7. EXPENSES ALLOWED.] The expense of said commission and of the members thereof shall be audited and allowed the same as other expenses of the state administration and paid out of the general fund.

§ 8. FILE REPORT.] In order that the information obtained by such commission shall be available for the state board of equalization, as well as for the legislative assembly, at the earliest possible

date, the said commission shall file with the secretary of state a report of its findings up to and on the first day of July, 1907, and a like report on the first day of July, 1908.

§ 9. PERSON TESTIFYING IMMUNE.] No person shall be privileged from testifying in relation to anything herein contained, but no such person shall thereafter be prosecuted for any offense concerning which he may have been required to testify, and the testimony so given shall not be used in the prosecution of any such person in any criminal action whatever, except in actions for perjury in giving such testimony.

Approved March 19, 1907.

# PURE FOODS AND DRUGS

## CHAPTER 195.

[S. B. No. 57—Hanna]

### PURE FOOD LAW.

AN ACT to Prevent the Adulteration and Misbranding of Foods and Beverages, the Selling of Adulterated and Unwholesome Foods and Beverages, and Providing for the Proper Labeling of All Foods and Beverages.

*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, either himself or while acting as agent or servant of any other person or corporation, to manufacture for sale, sell, offer or to have for sale, to solicit orders for, to store or to deliver within the state any article of food or beverage which is unwholesome, misbranded, adulterated or insufficiently labeled within the meaning of this act. The having in possession of such adulterated, unwholesome, misbranded or insufficiently labeled article or articles shall be deemed as prima facie evidence of the violation thereof. For the purpose of this act all condiments, extracts, vinegars, or other substances used in the preparation or compounding of foods or food products and beverages shall be deemed as articles of food.

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

First. If it contains any form of aniline dye or other coal tar dye, or if colored (and not in violation of clause six of this section with a harmless vegetable dye and the name thereof is not given on the label.

Second. If it contains formaldehyde, benzoic acid, sulphurous acid, boric acid, salicylic acid, hydrofloric acid, saccharin, benaphthol or any salt or antiseptic compound derived from these products, or other deleterious ingredient.

Third. If any substance or substances have been mixed with it so as to reduce or lower or injuriously affect its quality or strength or food value 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 articles 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 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, branded, colored, coated, or stained, whereby damage or inferiority is concealed, so as to deceive or mislead the purchaser, or if it be falsely labeled in any respect.

Eighth. If it consists wholly or in part of a diseased, decomposed, filthy or putrid animal or vegetable substance, or if such substance or substances be used in the preparation thereof, or if it is the product of a diseased animal, or one that has died otherwise than by slaughter.

Ninth. If every package, bottle or container does not bear the true net weight, the name of the real manufacturer or jobbers, and the true grade or class of the product, the same to be expressed on the face of the principal label in clear and distinct English words in black type on a white background, said type to be in size uniform with that used to name the brand or producer.

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 not included in definitions sixth and eighth of this section, and if it be properly labeled or tagged to comply with the other provisions of section two.

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 coal tar dyes or other poisonous colors, flavors or products 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 on the 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, and in a form to be prescribed by the North Dakota government agricultural experiment station 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. The label shall bear no advertising or descriptive matters other than the name of the manufacturer, composition as prescribed for above, and directions for use.

Fourth. In the case of perishable goods put up in bulk, sodium benzoate or other less harmful preservatives may be used in proportion not to exceed one part in two thousand in such products and under such regulations as may be determined upon and proclaimed by the North Dakota government agricultural experiment station at Fargo. This clause shall not be applicable to any case at any time where products can be commercially produced without the use of chemical preservatives. Where the use of preservatives is permitted the fact shall be clearly set forth on the face label in a form and manner to be prescribed by the North Dakota government agricultural experiment station at Fargo.

§ 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 dollars or more than one hundred dollars, and all necessary costs, including the expense of analyzing such adulterated articles when said person has been found guilty under this act. Products found to be adulterated within the meaning of this act may by order of the court be seized and ordered destroyed.

§ 4. DUTY OF STATE'S ATTORNEY.] It shall be the duty of the attorney general and the state's attorney to prosecute all persons violating any of the provisions of this act when the evidence thereof has been presented by the North Dakota government agricultural experiment station as provided for in sections seven and eight of this act.

§ 5. THE NORTH DAKOTA EXPERIMENT STATION TO INSPECT AND ANALYZE FOODS AND BEVERAGES.] The North Dakota government agricultural experiment station shall make analysis of food products and beverages on sale in North Dakota suspected of being adulterated, at such times and places and to such extent as it may determine and may appoint for the enforcement of the terms of this act a commissioner and such other agent or agents as it may deem necessary, and the sheriffs of the respective counties of the state are hereby appointed and constituted agents for the enforcement of this act, and such commissioner, agent or agents and sheriffs shall have free access at all reasonable hours, for the purpose of examining into any place wherein it is suspected any article of food or beverage adulterated with any deleterious or foreign ingredient or ingredients exists, and such commissioner, agents or sheriff, upon

tendering the market price of said article may take from any person, firm or corporation samples of any articles suspected of being adulterated as aforesaid, and the station may adopt or affix standards of purity, quality or strength when such standards are not specified or fixed by statute.

§ 6. CITIZEN MAY SEND SAMPLE OF FOOD OR BEVERAGE FOR ANALYSIS.] Any citizen of the state may, by prepaying the transportation charges, send any article of manufactured food or food product, or beverage in the original package to said station to be analyzed, and such article, if not before analyzed, shall be analyzed and included in the next bulletin or report of the station as provided for in section nine of this act.

§ 7. FACTS, HOW TRANSMITTED.] Whenever said station shall find by its analysis that adulterated, misbranded or insufficiently labeled food products or beverages have been on sale in this state, it shall forthwith transmit the facts so found to the attorney general and to the state's attorney of the county in which said food product was found.

§ 8. CERTIFICATES AS EVIDENCE.] Every certificate duly signed and acknowledged by the chemist of the North Dakota government agricultural experiment station at Fargo relating to the analysis of any food, food products or beverage, shall be presumptive evidence of the facts therein stated.

§ 9. STATION TO MAKE ANNUAL REPORT.] The said station shall make an annual report to the governor upon adulterated food products, and said report may be included in the report which the said station is already authorized by law to make to the governor and the said station is further authorized to publish or cause to be printed from time to time such bulletins as are found necessary for setting forth the results of analysis and investigations made under this act, and in June and December of each year the said station shall furnish to the auditor of each county in the state a certified list of all adulterated foods, food products and beverages as found by such analysis, showing the name and brand of the article, the manufacturer and the reason for classing the same as illegal. The county auditor of each county shall cause the said list to be printed in the official papers of such county. Said publication shall be made in July and January of each year and shall continue for two successive issues, to be paid for by such county at the rate allowed by law for publishing the proceedings of the board of county commissioners.

§ 10. DUTY OF SHERIFF ON PRESENTATION OF COMPLAINT OF VIOLATION OF THIS ACT. COMPENSATION.] It is hereby made the duty of the sheriff of any county of this state, on presentation to him of a verified complaint of the violation of any provision of this act, to at once proceed to obtain by purchase a sample of the adulterated food, food products or beverage complained of, and forward the same to the said station for analysis, marking the

package or wrapper containing the same for identification with the name of the person from whom procured, the date on which the same was procured and the substance therein contained. For his services hereunder the said sheriff shall be allowed the same fees for travel as are now allowed by law to sheriffs on service of criminal process, together with such compensation as may be by the county commissioners of his county deemed reasonable, and all amounts expended by him in procuring and transmitting the said samples, which fees and amount expended shall be audited and allowed by the said commissioners and paid by his said county as other bills of said sheriff.

§ 11. NO ACTION IN COURT.] No action shall be maintained in any court in this state on account of any sale or other contract made in violation of this act.

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

§ 13. EMERGENCY.] Whereas, an emergency exists in that the title to the present food law is imperfect, and inadequate protection is afforded against the sale of short weight goods, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 8, 1907.

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## CHAPTER 196.

[H. B. No. 84—Treat]

### PURE DRUGS

AN ACT to Prevent the Adulteration, Misbranding and Selling of Adulterated and Insufficiently Labeled Drugs or Medicines, Restricting or Prohibiting the Sale of Certain Drugs, Prescribing a Penalty for the Violation Thereof, Providing for the Inspection, Testing and Analyzing of Said Drugs and Medicines, Charging the North Dakota Experiment Station With the Duty Thereof, and Charging the State's Attorney With the Enforcement Thereof.

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

§ 1. ADULTERATING AND LABELING DRUGS.] It shall be unlawful for any person, his agent or servant, or while acting as agent or servant of any other person or corporation, to manufacture for sale, offer for sale or sell within this state any drug which is adulterated within the meaning of this act.

§ 2. DRUGS DEFINED.] The term "drug" as used in this act shall include all medicines for internal or external use, antiseptics, disinfectants, washes, perfumes and cosmetics.

§ 3. WHAT CONSTITUTES ADULTERATION.] A drug shall be deemed to be adulterated:

First—If, when sold under or by a name recognized in the United States Pharmacopoeia or the National Formulary, official at the time, it differs from the standard of strength, quality or purity prescribed therein, unless the order therefor requires an article inferior to such standard or unless such difference is made known or so appears to the purchaser at the time of the sale.

Second—If, when sold under or by a name not recognized in the United States Pharmacopoeia, or the National Formulary, but which is found in some other pharmacopoeia or other standard work on materia medica, it differs materially from the standard of strength, quality or purity prescribed in such work.

Third—If its strength, quality or purity falls below the professed standard under which it is sold.

Fourth—If it be an imitation of or offered for sale under the name of another article, or if it be falsely labeled in any respect with regard to its composition, properties, uses, or place of manufacture, or if it bear any design which shall deceive or tend to deceive;

Provided, that a drug or medicine shall not be deemed adulterated in the following case:

First—If the standard of strength or purity of any drug has been raised since the issue of the last edition of the United States Pharmacopoeia or of the National Formulary, no prosecution relative to it shall be maintained until such change of standard has been published throughout the commonwealth.

§ 4. DRUGS AND MEDICINES TO BE LABELED.] Every proprietary product, drug, medicine or beverage containing any alcohol, morphine, opium, heroine, alpha or beta eucaine, chloroform, cannabis indica, chloral, hydrate, bromine, iodine, acetanilid, or croton oil, or of any derivative or preparation of any such substances contained therein shall be clearly labeled in plain, open gothic letters printed on a white background, showing the name, the proportion or percentage of each of the foregoing constituents, and said facts shall all be set forth on the face or principal label and separate from other statements, and in such a way as to be clearly seen.

§ 5. COCAINE, HOW SOLD.] No product or preparation shall be sold, offered for sale or given away which contains cocaine or any of its salts or derivatives, and no delivery of cocaine or its salts shall be made in this state except upon the written prescription of a licensed physician, dentist or veterinarian, and said prescription shall not be refilled. Any druggist violating this section of the act shall forfeit his license.

§ 6. METHYL ALCOHOL PROHIBITED.] It shall be unlawful to sell, offer or expose for sale, or to have in possession any preparation or product intended for the use of man, either for internal or external purposes, including washes and perfumes, which contain methyl alcohol or wood spirits.

§ 7. PHYSICIANS' PRESCRIPTIONS TO BE FILLED.] Nothing in this act shall be so construed as to in any way interfere with the written prescription of any regularly licensed physician or with the filling of the same by a licensed druggist.

§ 8. PENALTY FOR SO DOING.] Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor and shall for the first offense be punished by a fine of not less than five dollars or more than one hundred dollars, and all necessary costs, including the expense of analyzing such adulterated articles when said person has been found guilty under this act, and all such adulterated or misbranded articles may by order of the court be seized and destroyed.

§ 9. DUTY OF STATE'S ATTORNEY.] It shall be the duty of the attorney general and state's attorney to prosecute all persons violating any of the provisions of this act when the evidence thereof has been presented by the North Dakota government agricultural experiment station as provided for in sections 11 and 12 of this act.

§ 10. NORTH DAKOTA EXPERIMENT STATION TO INSPECT AND ANALYZE DRUGS AND MEDICINES.] The North Dakota government agricultural experiment station shall make analysis of drugs and medicines found on sale in North Dakota suspected of being adulterated, at such times and places and to such extent as it may determine, and may appoint such agent or agents as it may deem necessary for the enforcement of the provisions of this act, and such agent or agents shall have free access and egress, at all reasonable hours for the purpose of examining into any place wherein it is suspected any drug or medicine adulterated with any deleterious or foreign ingredient or which falls below the standard of purity or where such ingredients exist, and such agent or agents, upon tendering the market price of said article, may take from any person, firm or corporation samples of any articles suspected of being adulterated as aforesaid.

§ 11. FACTS, HOW TRANSMITTED.] Whenever said station shall find by its analysis that adulterated drugs have been on sale in this state or that said drugs are in violation of this act, it shall forthwith transmit the facts so found to the attorney general and state's attorney of the county in which said adulterated product was found.

§ 12. CERTIFICATE AS EVIDENCE.] Every certificate duly signed and acknowledged by the chemist of the North Dakota government agricultural experiment station at Fargo, relating to the analysis of any drug, drug products or medicines, shall be prima facie evidence of the facts therein stated.

§ 13. STATION TO MAKE ANNUAL REPORT.] The said station shall make an annual report to the governor upon the work done under this act and said report may be included in the report which said station is already authorized by law to make to the governor. Said station is further authorized to publish and distribute bulle-

tins giving the results of such analyses and investigations as have been made under authority of this act.

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

§ 15. EMERGENCY.] Whereas, an emergency exists, since inadequate protection is afforded against the sale of cocaine and other narcotics, therefore this act shall take effect and be in force from and after its approval.

Approved March 13, 1907.

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## CHAPTER 197.

[S. B. No. 63—Gilbert]

### CONCENTRATED COMMERCIAL FEEDING STUFF.

AN ACT to Prevent Adulteration, Misbranding and Selling of Adulterated and Insufficiently Labeled "Concentrated Commercial Feeding Stuff," Prescribing a Penalty for the Violation Thereof, Providing for the Inspection, Testing and Analysis of Said Feeding Stuffs, Charging the North Dakota Government Agricultural Experiment Station with the Duty Thereof, and Charging the State's Attorney with the Enforcement Thereof.

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

§ 1. FEEDING STUFFS, HOW LABELED.] Every lot or parcel of any "concentrated commercial feeding stuff," as defined in section three, used for feeding farm live stock, sold, offered or exposed for sale in the state, shall have affixed in a conspicuous place on the outside thereof, a legible and plainly written statement, clearly and truly certifying the number of net pounds contained therein, the name, brand or trademark under which the article is sold, the name and address of the manufacturer or importer, and a statement of the percentage it contains of crude protein, allowing one per cent of nitrogen to equal (n. x 6.25) six and one-fourth per cent crude fat, and of crude fibre, said constituents to be determined by the methods of the association of official agricultural chemists of the United States as adopted at that time.

§ 2. FEEDING STUFFS EXEMPTED.] The term "concentrated commercial feeding stuffs" as here used shall not include hays, straw, whole seeds, nor the unmixed meals made directly from the seed of wheat, rye, speltz, barley, oats, Indian corn, buckwheat or broom corn, and neither shall it include wheat, rye, buckwheat, brans or middlings not mixed with other substances, but sold separately as distinct articles of commerce, nor pure grains ground together.

§ 3. FEEDING STUFFS TO BE LABELED.] The term "concentrated commercial feeding stuffs," as here used, shall include linseed meals, cotton seed meals, cotton seed feeds, pea meals, cocoanut meals, gluten meals, gluten feeds, maize feeds, starch feeds, sugar feeds, dried brewer's grains, dried distiller's grains, malt sprouts, hominy feeds, cereline feeds, rice meals, dried beef refuse, oat feeds, corn and oat chops, corn and oat feeds, corn bran, ground beef or fish scraps, meat and bone meal, clover meals, condimental foods, poultry foods, stock foods, patented, proprietary or trademarked stock and poultry foods (whether to be used as foods or medicines), mixed feeds, other than those composed solely of bran and middlings mixed together, or pure grains ground together, and all other materials of similar nature not included in section two.

§ 4. SHALL FILE STATEMENT WITH STATION.] Each and every manufacturer, importer, agent or seller of any "concentrated commercial feeding stuff" shall, during the month of December, file with the North Dakota government agricultural experiment station a certified copy of the statement named in section one of this act, and, upon request shall furnish a sealed glass jar or bottle containing a representative sample of at least one pint of the feeding stuff to be sold or offered for sale in this state.

§ 5. FINES FOR FAILURE TO COMPLY WITH THE LAW.] Each and every manufacturer, importer, agent, or person, selling, offering or exposing for sale in this state any "concentrated commercial feeding stuff," as defined in section three of this act, without the statement required by section one of this act, and stating that said feeding stuff contains substantially a larger percentage of either of the constituents mentioned in section one, than is contained therein, or in relation to which the provisions of all the foregoing sections have not been fully complied with, shall be fined not exceeding one hundred dollars for the first offense, and not exceeding two hundred dollars for each subsequent offense.

§ 6. LICENSES FOR FEEDING STUFFS.] Every manufacturer, importer, agent or seller of any "concentrated commercial feeding stuffs" shall pay annually, during the month of December, to the North Dakota government agricultural experiment station, a license fee of fifteen dollars for each and every brand sold or offered for sale in North Dakota. Whenever the manufacturer, importer or agent or seller of "concentrated commercial feeding stuffs" desires at any time to sell such material and has not paid the license fee therefor in the preceding month of December, as required by this section, he shall pay the license fee prescribed herein before making the sale. Each manufacturer, importer or person who has complied with the provisions of this article shall be entitled to receive a certificate from the director of the government agricultural experiment station at Fargo, setting forth said facts. Whenever a manufacturer, importer or shipper of "concentrated commercial feeding stuffs" shall have filed the statement required by section

one of this article, and paid the license fee as prescribed in this section, no other agent, or seller, manufacturer, importer or shipper shall be required to file such statement or pay such fee for the same brands.

§ 7. FINES FOR ADULTERATING FEEDS.] Any person who shall adulterate any kind of meal or ground grain with milling or manufacturing offals, or any other substance whatever, for the purpose of sale, unless the true composition, mixture or adulteration thereof is plainly marked or indicated upon the package containing the same, or in which it is offered for sale, or any person who knowingly sells or offers for sale any meal or ground grain which has been so adulterated, unless the true composition of the mixture is plainly marked or indicated upon the package containing the same, or in which it is offered for sale, shall be fined not less than twenty-five dollars, nor more than one hundred dollars for each offense.

§ 8. EXPERIMENT STATION TO ENFORCE LAW.] The North Dakota government agricultural experiment station at Fargo is hereby authorized to have collected a sample, not exceeding two pounds in weight, for analysis, from any lot, parcel or package of any "concentrated commercial feeding stuff" as defined by section three of this act, or any kind of material which is used in the feeding of domestic animals, and which may be in the possession of any manufacturer, importer, agent or dealer, and whenever requested said sample shall be taken in the presence of said party or parties in interest, or their representatives, and taken from a number of parcels, or packages, which shall not be less than five per centum of the whole lot inspected, and shall be thoroughly mixed, divided into two samples, placed in glass vessels, carefully sealed, and a label placed on each stating the name or brand of the feeding stuff or material sampled, the name of the party from whose stock the sample was taken, and the time and place of taking the same, and said label shall be signed by the collector or his deputy, and by the party or parties in interest or their representatives present at the taking and sealing of said samples; one of said samples shall be retained by the collector or his deputy, and the other by the party whose stock is sampled. The said North Dakota government agricultural experiment station shall cause at least one sample of each brand of feeding stuff collected as herein provided to be analyzed annually. Said analysis shall include determinations of crude fat, crude fibre, crude protein, and such other determinations as may at any time be deemed advisable. Said North Dakota government agricultural experiment station shall cause the analysis so made to be published in its annual report to the governor, also said analysis may be published in station bulletins, together with such other additional information in relation to the character, composition and use thereof as may seem to be of importance, and issue the same annually, or more frequently, if deemed advisable. For

the purpose of enforcement of this act the director of the experiment station, his deputy or his agents, shall have full and free access to all places of business, mills, buildings, carriages, cars, vessels and packages, of whatsoever kind used in the manufacture, importation or sale of any "concentrated commercial feeding stuff," and shall also have power and authority to open any packages containing or supposed to contain any "concentrated commercial feeding stuff," and take therefrom samples for analysis.

§ 9. WHAT CONSTITUTES VIOLATION OF THE LAW.] The doing of anything prohibited by this act shall be evidence of the violation of the provisions of this act relating to the things so prohibited and the omission to do anything directed to be done shall be evidence of a violation of the provisions of this act relative to the things so directed to be done.

§ 10. DUTY OF STATION.] The director of the North Dakota government agricultural experiment station or his agent or deputy is charged with the enforcement of the provisions of this act, and for this purpose, may employ agents, chemists and experts, and whenever he shall know or have reason to believe that any penalty has been incurred by any person for the violation of any of the provisions of this act, or that any sum has been forfeited by reason of any such violation, he or his agent shall report the said violation with a statement of the facts to the attorney general or to the state's attorney for the district wherein the offense is committed, who shall begin proceedings according to the state law.

§ 11. IMPORTER DEFINED.] The term importer, for all purposes of this act, is intended to apply to such person or persons as shall bring into, or offer for sale within this state "concentrated commercial feeding stuffs" manufactured without this state; provided, that nothing in this act shall be construed as prohibiting persons engaged within the state of North Dakota in the business of manufacturing flours, from selling at the place where made, their own manufacture of bran and middlings, without complying with the provisions of section one of this act.

§ 12. WHEN ACT TAKES EFFECT.] This act shall take effect on and after July 1, 1907, but the first license required of dealers as specified in section four, shall be that for December, 1907.

Approved March 8, 1907.

## CHAPTER 198.

[S. B. No. 18—Hanna]

### APPROPRIATION FOR ENFORCING PURE FOOD AND DRUG LAWS.

AN ACT Appropriating Money for the Enforcement of the Food Law, Drug Law, Formaldehyde and Paris Green Laws, and the Paint Law. Also for Making Such Investigations as Are Deemed Necessary for the Purpose of Gaining Information under the Laws Mentioned and for the Dissemination of Information.

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

§ 1. ANNUAL APPROPRIATION.] There is hereby appropriated annually out of any money in the state treasury, not otherwise appropriated, the sum of ten thousand dollars to the North Dakota government agricultural experiment station at Fargo, the same to be used for the further and better enforcement of the food law, the drug laws, formaldehyde and paris green laws, the paint laws, and such other enacted food or drug laws as the said station may be charged with the enforcement of by acts of the legislative assembly, and also for the dissemination of information through bulletins and reports, which the said station is hereby authorized to publish from time to time setting forth the results of such analyses and investigations as are of interest to the people of the state and which are made under authority of the several acts hereinbefore named. The sum herein named shall be paid in equal semi-annual installments to the treasurer of the board of trustees of said station, upon the order of the state auditor, who is hereby directed to draw his order for the same; provided, that of the amount herein appropriated there shall be paid to Prof. E. F. Ladd, state pure food commissioner, in addition to any sum or sums he may from time to time receive as salary from the agricultural college, so long as he shall continue to fill said position, the sum of five hundred dollars annually, to be paid him quarterly.

§ 2. EMERGENCY.] Whereas, it is important that the provisions of this act shall be in effect prior to July 1st, an emergency exists and this act shall take effect from and after its passage and approval.

Approved March 2, 1907.

# RAILROADS

## CHAPTER 199.

[H. B. No. 18—White]

### MAXIMUM TRANSPORTATION RATES.

AN ACT Providing for a Maximum Rate of Fare to be Charged and Collected by Railroads, Railroad Corporations and Common Carriers, for the Transportation of Passengers and Baggage, and Providing a Penalty for the Violation Thereof.

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

§ 1. TWO AND ONE-HALF CENTS A MILE AND FAMILY MILEAGE BOOKS.] Every railroad, railroad corporation and common carrier doing business in this state, their officers, agents, representatives, employes, trustees, receivers and lessees shall be limited to a compensation of not to exceed two and one-half cents per mile for distances exceeding six miles, for the transportation of any person with ordinary baggage not exceeding one hundred and fifty pounds in weight; and for children five years of age and less than twelve years of age, one-half of the fare charged for adults; and for children under five years old who are traveling with an adult paying full fare no charge shall be made; provided, that every railroad, railroad corporation and common carrier doing business in this state shall issue upon request of any person, mileage books in denomination of one thousand miles, limited to not less than one year from date of issue and redeemable within one year after the expiration of such limitation, with baggage and other facilities similar to those accompanying regular trip tickets, at a price of twenty dollars each; that such mileage books shall be good for travel by the purchaser and such adult members of his family as he may designate and whose names are then and there written thereon, but the fare shall always be made that multiple of five nearest reached by multiplying the rate by the distance; provided, further, that the provisions of this act shall not apply to the transportation of passengers within the boundaries of any city by street railway companies. Every officer, agent, conductor, representative or any employe of any railroad, railroad corporation or common carrier who shall aid or abet any such railroad, railroad corporation or common carrier in the violation of this act by selling, charging or collecting for any ticket or transportation over any railroad any greater sum, charge or rate than that above specified shall be deemed personally guilty

of a violation of this act and, upon conviction, shall be punished as hereinafter provided. The sum of ten cents may be added to the legal fare when the same is paid on the cars, provided that a reasonable opportunity has been afforded to passengers to purchase tickets at the legal rate of fare before boarding the train.

§ 2. COMPULSORY TESTIMONY.] No person and no officer, agent, representative or employe of any railroad, railroad corporation or common carrier shall be excused from testifying or producing books and documents in his possession in relation to any violation of this act on the ground that such testimony, books or documents would tend to convict the person so testifying of a crime; but no person so testifying shall be liable to prosecution or punishment for any offense concerning which he has been required to testify or to produce books or documents.

§ 3. PENALTY.] Every such railroad, railroad corporation or common carrier violating any of the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than five hundred dollars nor more than five thousand dollars; and any agent or officer so offending shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than fifty dollars nor more than one hundred dollars or by imprisonment in the county jail for not less than thirty days or more than ninety days, or by both such fine and imprisonment in the discretion of the court.

§ 4. REPEAL.] All acts and parts of acts in so far as they conflict with this act are hereby repealed.

Approved March 13, 1907.

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## CHAPTER 200.

[H. B. No. 153—Shirley]

### RECIPROCAL DEMURRAGE.

AN ACT to Regulate the Operation of Passenger and Freight Trains Over Railway Lines in This State, and to Regulate the Receipt, Transportation and Delivery of Freight by Common Carriers, and Providing Penalties for Violations of the Act.

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

§ 1. DAILY LOCAL PASSENGER TRAINS. PENALTY FOR FAILURE TO RUN.] It shall be the duty of every railroad corporation operating a line or lines of railroad within this state, except branch lines that may hereafter be constructed, whether such lines are wholly or partly within this state and partly within other states

or foreign country, to move over its line or lines of road within this state, each way on every business day of the year, at least one local passenger train to consist of not less than one engine and tender and combination mail, express and baggage car and two passenger coaches, and at least one freight train; provided, however, that if any railroad corporation shall make it appear to the board of railroad commissioners of this state that the business on any line of its road will not justify its operating both the passenger and freight train herein provided for and said board shall so order, such company may operate one mixed train on such line each way on every business day in the year for such time as said board may direct; provided, further, that such mixed train shall be supplied with not less than one passenger coach and one combination baggage and passenger coach for the accommodation of passengers. For each and every violation of the provisions of this section the railroad company shall be subject to a fine of five hundred dollars.

§ 2. RECEPTION OF FREIGHT. DEMURRAGE FOR DELAY IN SHIPMENT.] It shall be the duty of every railroad corporation operating its roads within this state to receive any and all freight offered to it, at any of its stations within this state for transportation to another point within this state, and to deliver to the person offering such freight for transportation a proper receipt therefor showing the time such freight is received, and such railroad corporation shall deliver such freight at its destination by the next schedule train; provided, such freight is offered to such railroad corporation between the hours of eight o'clock a. m. and five o'clock p. m. on any business day, and at least two hours before the time the next local freight train is scheduled to leave such station to the station or point where such freight is to be delivered; provided, further, that any articles of freight weighing one thousand pounds or more each shall be delivered at such station not less than four hours prior to the time that such scheduled train is due to depart; provided, further, that any condition in any contract made a part of any shipping bill, or receipt, which in any way purports to release such railroad corporation from its duty under this act shall be null and void; and provided, further, that any railroad corporation refusing or failing to deliver to such person so offering such freight such receipt when demanded, shall be liable to such person in the sum of one hundred dollars, and any railroad corporation failing or refusing to deliver such freight at its destination as herein provided, shall forfeit ten per cent of the charges for transporting such freight for each twenty-four hours that such freight is delayed; provided, further, that if such freight does not reach its destination for sixty hours after the scheduled time for its arrival, as herein provided, barring accidents and the elements, the consignee may refuse to receive same and such railroad corporation shall be liable to the owner for the

value of such freight, together with such damages as the parties may sustain by reason of such delays, same to be recovered in a civil action. Upon payment as above provided the railroad corporation shall become at once the absolute owner of said property.

§ 3. DEMURRAGE IN CASE OF DELAY IN CARLOAD SHIPMENTS.] Every railroad corporation operating a line or lines of road through or within this state shall furnish suitable cars for car load shipments of freight to any person, persons or corporation, applying therefor to any agent, within this state, of said railroad corporation, and such car or cars shall be placed in a suitable and convenient place for loading within seventy-two hours after application therefor has been made; provided, that no railroad company shall be required to furnish to any person or corporation more than two cars at any one time. Any railroad corporation failing or refusing to furnish such car or cars and failing or refusing to so place such car or cars in a suitable and convenient place for loading within seventy-two hours after such demand, and after the schedule time of its trains will enable it to deliver such car or cars, shall forfeit for each car so ordered to such person, persons or corporation the sum of two dollars for each and every twenty-four hours until such car or cars are so furnished; provided, however, that such person, persons or corporation applying for cars to be used wholly within this state shall, at the time of applying therefor, pay or tender to such railroad corporation not less than twenty per cent of the freight charges for such car according to said railroad corporation's published tariff.

§ 4. DEMURRAGE IN CASE OF DELAY IN CARLOAD SHIPMENTS WITHIN THE STATE.] Whenever any person, persons or corporation shall have loaded any car or cars for transportation wholly within this state, they shall at once deliver same to the railroad corporation by notifying it that said car or cars are ready for shipment and it shall be the duty of such railroad corporation to deliver to such person, persons or corporation a shipping bill, or receipt, for such car or cars, showing the time same was so delivered, and it shall be the duty of said railroad corporation to forward said car by its next scheduled local freight train leaving such station to the station or place to which such car or cars are to be delivered and to deliver same to its destination at the time designated in its schedule of trains for the line or lines over which said train shall pass and said railroad corporation shall forfeit to such shipper ten per cent of the freight on such car or cars for each twenty-four hours such car shall be delayed, as shown by the time same was received and the schedule time of such train or trains; provided, such car or cars were delivered to the railroad company at least three hours before the departure according to the schedule of such train or trains, and if such car or cars are not delivered within sixty hours after the time of arrival of the next scheduled local train after such car or cars are so delivered, barring accidents and

the elements, the consignee may refuse to accept same and such railroad corporation shall be liable to the owner for the value of the freight so shipped, together with such damages as the parties may sustain, same to be recovered in a civil action.

§ 5. DEFINITION OF PHRASES.] In the construction of this act, the phrase "railroad" shall be construed to include all common carriers, railroads and railways operated by steam, whether used or operated by the corporation owning them or by other corporations or otherwise. The phrase "railroad corporation" shall be construed to mean the corporation which constructs, maintains, uses or operates a railroad operated by steam power, and used for the transportation of persons or property, or leases cars by whatever name known to such railroad for such purposes.

§ 6. COSTS ALLOWED IN ACTION FOR VIOLATION OF LAW.] In any action commenced under this act the plaintiff shall in connection with the usual costs allowed in civil actions, be entitled to the same mileage and witness fees as any witness in the case, and the court shall allow a reasonable amount as an attorney's fee, same to be taxed as costs in this action; provided, however, that nothing in this act shall be construed to stop or hinder any person, persons or corporation from bringing suits against any corporation for any violation of all of the laws of this state, or of the United States, for the government of railroads.

§ 7. PROVISIONS OF ACT CUMULATIVE.] Nothing in this act contained shall in any manner be construed as repealing or in any manner altering any other act, or part of act, heretofore adopted by the legislature of this state, but the remedies herein provided shall be cumulative to all other remedies now existing.

Approved March 14, 1907.

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## CHAPTER 201.

[S. B. No. 34—McArthur]

### BULLETINING OF PASSENGER TRAINS.

AN ACT to Provide for the Bulletining of the Time of Arrival of Passenger Trains.

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

§ 1. TIME SCHEDULE OF TRAINS.] Every corporation, company or person, operating a railroad within this state, shall, immediately after the taking effect of this act, cause to be placed in a conspicuous place in each passenger depot of such company, located at any station in this state, at which there is a telegraph office, a blackboard of suitable size, upon which such company or person

shall cause to be written, at least thirty minutes before the schedule time for the arrival of each passenger train stopping upon such route at such station, the fact whether such train is on schedule time or not, and if late, how much, and the figures on said blackboard shall be changed at intervals of one hour to correspond with the facts until the arrival of such delayed train; provided, also, that any passenger trains not more than fifteen minutes late shall be deemed to be on time as to the operation of this act.

§ 2. PENALTY FOR FALSE REPORTS OR FAILURE TO BULLETIN TRAINS.] For each violation of the provisions of this act in failing to report, or in making a false report, such corporation, company or person, so failing or refusing to comply with the provisions of this act, shall forfeit and pay the sum of twenty-five dollars, together with all taxable costs, to be recovered in a civil action to be prosecuted by the state's attorney of the county in which the neglect or refusal occurs, in the name of the state of North Dakota, which shall be paid over to the county in which such proceedings are had, and shall be a part of the common school fund.

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

§ 4. EMERGENCY.] An emergency is hereby declared to exist, and this act shall take effect and be in force on and after its passage and approval.

Approved March 19, 1907.

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## CHAPTER 202.

[H. B. No. 34—Storey]

### STOPPING TRAINS AT COUNTY SEATS.

AN ACT to Amend Section 4302 of the Revised Codes of North Dakota, of 1905, Relating to Stopping of Trains at County Seats.

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

§ 1. AMENDMENT.] Section 4302 of the revised codes of North Dakota, of 1905, is hereby amended and re-enacted to read as follows:

§ 4302. STOP AT COUNTY SEATS. PENALTY.] Every person, company or corporation operating a railroad within or through this state shall cause all its regular passenger trains to stop, upon the arrival at its station, at each county seat through or by which such trains run, a sufficient length of time to receive and let off passengers with safety; provided, that where any railroad operating three or more regular passenger trains in each direction

daily, the provisions of this act shall not apply to one of such trains each way. Every person, company or corporation failing to comply with the provisions of this 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 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 prosecute such action on behalf of the state.

Approved March 13, 1907.

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## CHAPTER 203.

[S. B. No. 276—Gilbert]

### FELLOW SERVANT ACT.

AN ACT Relating to Liability of Common Carriers to Their Employes.

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

§ 1. LIABILITY OF COMMON CARRIERS.] Every common carrier shall be liable to any of its employes, or in case of the death of an employe, to his personal representative, for the benefit of his widow, children or next of kin, for all damages which may result from the negligence of any of its officers, agents or employes, or by reason of any defect or insufficiency due to its negligence in its cars, engines, appliances, machinery, track, roadbed, ways or works.

§ 2. CONTRIBUTORY NEGLIGENCE NO BAR TO RECOVERY, WHEN.] In all actions hereinafter brought against any common carrier to recover damages for personal injuries to an employe, or where such injuries have resulted in his death, the fact that the employe may have been guilty of contributory negligence shall not bar a recovery, where his contributory negligence was slight and that of the employer was gross in comparison, but the damages shall be diminished by the jury in proportion to the amount of negligence attributable to such employe. All questions of negligence and contributory negligence shall be for the jury.

§ 3. CONTRACTS TO AVOID LIABILITY VOID.] No contract of employment, insurance, relief benefit or indemnity for injury or death entered into by or on behalf of any employe, nor the acceptance of any such insurance, relief benefit or indemnity by the person entitled thereto shall constitute a bar or defense to any action brought to recover damages for personal injuries to or death of such employe; provided, however, that upon the trial of said action against any common carrier, the defendant may set off

therein any sum it has contributed toward any such insurance, relief benefit or indemnity that may have been made to the injured employe, or in case of his death, to his personal representative.

§ 4. TIME OF ACTION LIMITED.] No action shall be maintained under this act unless commenced within one year from the time the cause of action accrued.

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

Approved March 15, 1907.

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## CHAPTER 204.

[S. B. No. 277—Sharpe]

### RAILROAD RIGHT-OF-WAY.

AN ACT Providing the Manner in Which the Right-of-Way for Railroad Companies Over Lands Belonging to Wards or Deceased Persons May Be Acquired.

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

§ 1. HOW SECURED.] Whenever any railroad company has located the line of its road upon or contiguous to any land belonging to any decedent or ward, or in which the decedent or ward may have any interest, it shall be lawful for the executor, administrator or guardian to agree in writing and settle and adjust the damages, with the railroad company, to said land by reason of the location of said railroad, and the executor, administrator or guardian may in such agreement grant to the railroad company such right-of-way as shall be necessary and required by such railroad company, and upon such terms and conditions as may be agreed upon between the executor, administrator or guardian and said railroad company, subject to the approval of the county court.

§ 2. PETITION FILED.] Such approval may be obtained upon filing in the county court a verified petition of the railroad company and the executor, administrator or guardian, setting forth the name of the decedent or ward, the corporate name of the railroad company, a description of the land to be used or taken, and for what purpose, the amount to be paid, and that such amount is the full value of the lands so taken, and the damages to the remainder of the lands. To such petition shall be attached or indorsed thereon the agreement mentioned in section one of this act.

§ 3. DUTY OF COUNTY COURT.] Upon the filing of such petition and agreement, the court shall proceed to hear and determine the same in a summary manner, without notice, and if the court is

satisfied after a full hearing, that said agreement is just and equitable, it shall record such petition and agreement, and make an order approving such agreement; and thereafter such executor, administrator or guardian, upon payment being made by the railroad company of the consideration therefor as specified in said order, shall thereupon convey to the railroad company, for railroad purposes, the piece or parcel of land in said agreement and order described. A copy of said order and agreement duly certified by the county court, may be filed in the office of the register of deeds of the county wherein such land is situated and when so filed shall be notice to all persons.

§ 4. EMERGENCY.] Whereas, the present laws of this state make no provisions for the acquiring of right-of-way for railroads over the lands of wards and deceased persons, therefore an emergency exists, and this act will take effect and be in force from and after its passage and approval.

Approved March 19, 1907.

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## CHAPTER 205.

[S. B. No. 10—Spoonheim]

### RAILROAD COMPANIES REPORT WRECKS.

AN ACT Requiring Railroad Companies to Report All Wrecks and Casualties Wherein Any Person Is Injured or Killed, to the Railroad Commissioners.

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

§ 1. DUTY TO REPORT.] It shall be the duty of every railroad company operating a line of railway in this state to report to the railroad commissioners of this state all accidents, wrecks or casualties occurring in the operation of trains on said line or lines of railway within this state, coming within the knowledge of the company, wherein any person is either killed or injured, within reasonable time, not exceeding sixty days, in such form as the railroad commissioners may require.

§ 2. RAILROAD COMMISSIONERS EXAMINE INTO CAUSES OF WRECKS. MAKE REPORT TO LEGISLATURE.] Whenever any such report is made to such railroad commissioners they shall forthwith examine into the causes and circumstances of such wreck, accident or casualty, and it shall thereupon be the duty of said railroad commissioners to order such railroad company to comply with any reasonable requirements prescribed by said railroad commissioners, calculated to prevent the recurrence of any such wreck, accident or casualty, and it shall be the duty of said railroad commissioners

to report to the legislature biennially a summarized statement of all wrecks, accidents or casualties that have come to their knowledge by reason of this act, together with a recommendation of such additional legislation as they deem proper for the greater protection of passengers and employes of such railroads.

§ 3. PENALTY FOR VIOLATION.] Every person who shall violate any of the provisions of this act shall be guilty of a misdemeanor and shall be punished by a fine of not less than five hundred dollars, nor more than two thousand dollars, or imprisonment in the county jail for not less than thirty days, nor more than one year, or shall suffer both such fine and imprisonment in the discretion of the court.

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

Approved March 7, 1907.

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## CHAPTER 206.

[H. B. No. 137—O. J. Sorlie]

### USE OF RAILROAD TRACKS.

AN ACT Relating to the Use of Railroad Tracks for Highway Purposes.

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

§ 1. UNLAWFUL. EXCEPTION.] It is hereby made unlawful for any person when riding or driving or leading any animal or animals, and whether the same be or be not attached to any vehicle or sleigh, to drive upon or use any railroad track in this state as a highway; provided, however, this section shall not apply to highway crossings over any line of railway in the state, nor to depot grounds, station grounds, nor switches and sidetracks intended for the use of shippers or the consignees of freight.

§ 2. PENALTY.] Any person violating the provisions of this act shall be guilty of a misdemeanor.

§ 3. EMERGENCY.] Whereas, an emergency exists in this, to wit: that many persons are using the tracks of railroads in this state as public highways, thereby endangering both their own safety and the safety of passengers and trainmen upon trains running upon said railroads, therefore an emergency exists, and this act shall take effect upon its passage and approval.

Approved March 12, 1907.

# CHAPTER 207.

[S. B. No. 40—Spoonheim]

## HOURS OF SERVICE OF RAILWAY EMPLOYES LIMITED.

AN ACT to Promote the Safety of Employes and Travelers upon Railways by Limiting the Hours of Service of Employes Thereon, and Making the Violation Thereof a Misdemeanor, Providing a Punishment Therefor, Requiring Railroad Commissioners to Investigate the Same and Notify the Attorney General Thereof, Whose Duty It Shall Be to Prosecute the Same.

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

§ 1. HOURS LIMITED.] It shall be unlawful for any railroad, railroad corporation or common carrier, engaged in commerce in whole or in part within this state, or any of its officers or agents, to require or permit any employes engaged in or connected with the movement of any train in which commerce is hauled within the state, or to require or permit any employe engaged in or connected with the movement of any train carrying freight or passengers within the state, to remain on duty more than sixteen consecutive hours, except when by casualty, storms, wrecks, washouts, snow blockades or any unavoidable delay arising from like causes he is prevented from reaching his terminal; or to require or permit any such employe who has been on duty sixteen consecutive hours to go on any duty without having at least eight hours' rest.

§ 2. PENALTY.] Any such railroad, railroad corporation, common carrier, or any of its officers or agents, violating any of the provisions of this act shall be deemed guilty of misdemeanor and shall, upon conviction thereof in any district court of the state of competent jurisdiction, be subject to a fine of not less than one hundred dollars nor more than one thousand dollars for each offense; and it shall be the duty of the railroad commissioners to fully investigate all cases of any violation of this act and said railroad commissioners shall forthwith notify the attorney general of such violation thereof as may come to their knowledge, and it shall be the duty of the attorney general to prosecute or cause to be prosecuted all violations thereof.

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

Approved March 8, 1907.

# CHAPTER 208.

[H. B. No. 291—Law]

## SECURING TRANSPORTATION FRAUDULENTLY.

AN ACT Making It a Misdemeanor for an Employee to Obtain Railway or Other Transportation, or the Benefit of Other Advancements Made by Employers to be Thereafter Repaid in Labor, to Refuse to Perform Such Labor or Repay Such Advancements and Providing for Punishment Thereof.

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

§ 1. FRAUD TO SECURE TRANSPORTATION, WHEN.] Every employe who, with intent to defraud, shall accept or receive transportation provided by or at the instance or expense of his employer, from any point in this state to or in the direction of the place where he has contracted to perform labor for or render services to such employer, or who shall knowingly or with intent to defraud accept or receive the benefit of any other pecuniary advancements made by or at the instance and cost of his employer under an agreement on the part of such employe to perform labor or render services in repayment of the cost of such transportation or of such other benefits, shall be deemed and adjudged [guilty] of a misdemeanor if he shall neglect or refuse to render services or perform labor of an equal value to the full amount paid for such transportation or other benefits, or shall neglect or refuse to pay such employer in money the amount paid therefor. The value of the services to be rendered or labor to be performed shall be determined by the price agreed to be paid therefor by such employer under his contract with the employe. The failure or refusal of any such employe to perform such labor or to render such services in accordance with his contract or to pay in money the amount paid for such transportation or other benefits shall be prima facie evidence of his intent to defraud.

§ 2. PENALTY.] Every person found guilty of such misdemeanor shall be punished by a fine not exceeding twenty-five dollars and by imprisonment of not less than ten nor more than sixty days.

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

§ 4. EMERGENCY.] Whereas, an emergency exists in that there is now no law in this state covering the provisions of this act, same shall take effect from and after its passage and approval.

Approved March 13, 1907.

# CHAPTER 209.

[H. B. No. 7—Mockler]

## CATTLE GUARDS AT RAILROAD CROSSINGS.

AN ACT Requiring Railway Companies Owning or Operating a Line of Railway in This State to Construct, Maintain and Keep in Repair Suitable Fences and Cattle Guards, Making Said Company Liable for Stock Killed or Injured by Reason of its Failure to Fence and Construct Cattle Guards and Regulating Speed of Trains at Depot Grounds.

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

§ 1. CATTLE GUARDS, HOW CONSTRUCTED. SPEED OF TRAINS AT DEPOT GROUNDS.] All railway corporations owning or operating a line of railway within this state shall construct, maintain and keep in repair a suitable fence of posts and barb wire, or posts and boards, on each side of the track so connected with cattle guards at all public road crossings as to prevent cattle, horses and other live stock from getting on the railroad tracks; such fence when of barb wire shall be of five wires securely fastened to posts set not more than twenty feet apart, the top wire not to be less than fifty-four inches high, said wires to be not more than fourteen inches apart; or of five boards securely fastened to posts set not more than eight feet apart, said fence to be not less than fifty-four inches high and the boards not more than one foot apart. Any corporation operating a railroad and failing to fence same against live stock running at large and maintaining proper and sufficient cattle guards at all points where the right to fence or maintain cattle guards exists shall be liable to the owner of any stock killed or injured by reason of the want of such fence or cattle guard for the full amount of the damages sustained by the owner on account thereof, unless it was occasioned by his grossly negligent act or that of his agent, and to recover the same it shall only be necessary for him to prove the loss of or injury to his property. If such corporation fails or neglects to pay such damages within ninety days after notice in writing that a loss or injury has occurred accompanied by an affidavit thereof served upon an officer or a station or ticket agent employed by said corporation in the county where such loss or injury occurred such owner shall be entitled to recover from the corporation double the amount of damages actually sustained by him, and twenty-five dollars as attorney's fee when it shall be adjudged by a court of competent jurisdiction that the claimant is entitled to the amount claimed. No law of the state or any local, or police regulations of any county, township, city or town relating to the restraint of domestic animals, or in relation to the fences of farmers or land owners shall be

applicable to railway tracts unless specifically so stated in such law and regulation. Upon depot grounds necessarily used by the public and the corporation the operating of trains at a greater rate of speed than eight miles an hour where no fence is built shall be negligence and shall render such corporation liable for all damages occasioned thereby in the same manner and to the same extent except as to double damages, as in cases where the right to fence exists.

Approved March 14, 1907.

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## CHAPTER 210.

[H. B. No. 168—Anderson of Grand Forks]

### LIGHTING OF DEPOT PLATFORMS.

AN ACT to Provide for the Lighting of Depot Platforms.

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

§ 1. RAILROAD DEPOT LAMPS MUST BE PROVIDED.] All railroad companies using steam as a motor power and engaged in the business of carrying passengers to and from stations located in this state shall provide for the lighting of each and every depot platform used by passengers in getting on and off from trains. At least one lamp, with a lighting power equal to that of the ordinary street lamp shall be placed at each end of each and every said platform. During the hours of night said lamp or lamps shall be lighted for a period of at least one hour before and thirty minutes after the arrival of each and every train, providing that said train stops at such depot or platform for the purpose of letting passengers on and off.

§ 2. PENALTY.] In each and every town, village or city where a railroad company violates the provisions of section one of this act, such company shall upon conviction thereof be subject to a fine of not less than five dollars nor more than ten for each and every day during the time such violations continue to be made, said fine to be recovered in civil action by any competent court and it is hereby made the duty of the attorney general and the various state's attorneys of the counties wherein such violations take place to prosecute the violators of this act.

Approved March 13, 1907.

# CHAPTER 211.

[S. B. No. 273—McArthur]

## CONSTRUCTION OF "Y'S."

AN ACT to Amend Section 4392 of the Revised Codes of the State of North Dakota for 1905, Relating to the Construction of "Ys" and Transfer Facilities at Railroad Crossings, and Providing a Penalty for the Violation Thereof.

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

§ 1. AMENDMENT.] Section 4392 of the revised codes of the state of North Dakota be and the same is hereby amended and re-enacted to read as follows:

§ 4392. CONSTRUCT "YS."] In all cases where any line of railroad shall cross or intersect any other line of railroad in this state, it shall be the duty of each of the railroad companies owning or operating such intersecting railroad lines, to provide at such crossing or intersection suitable and sufficient facilities, such as building a "Y" or other tracks, and connections for transferring cars and traffic of all kinds and classes, or cars from one line of railroad to another; and to maintain the same and afford equal and reasonable facilities for the interchange of cars and traffic between respective lines, the expense of constructing and maintaining such "Y" or track to be borne equally between each such railroad company, or in such proportion as they may agree upon.

§ 2. PENALTY FOR FAILURE. DUTY OF ATTORNEY GENERAL AND STATE'S ATTORNEY.] Any person or corporation owning or operating any railway within this state, who shall fail to comply with the provisions of section one of this act within sixty days after the taking effect thereof, or any person or corporation which shall own or operate any railroad hereafter constructed and who shall fail to comply with the provisions of section one of this act within sixty days after any such crossing or junction shall have been constructed, shall be guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of one hundred dollars for each day during which it fails to comply with the provisions of section one, and it shall be the duty of the attorney general, or the state's attorney of any county in which such "Y" or other tracks should be constructed and maintained, to commence and prosecute all actions necessary for the enforcement of this act and the recovery of such penalty; provided, that no railroad company shall be compelled to put in such "Y" or other tracks between the fifteenth day of November and the fifteenth day of May of any year, when it cannot be done without grading; provided, that the provisions of

this act shall not apply to railroads where the crossing is by trestle bridge.

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

Approved March 19, 1907.

## CHAPTER 212.

[H. B. No. 318—O. J. Sorlie]

### URBAN ELECTRIC RAILWAYS.

AN ACT to Grant to Urban Electric Railways All of the Rights, Privileges and Power Granted to Steam Railways.

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

§ 1. GRANTED RIGHT OF CONDEMNATION.] Urban electric railways are hereby specifically granted and given the same rights, privileges and powers granted and given to steam railways in this state, including the right of organization and of condemnation of real property for right of way; provided, that when they shall exercise the right of eminent domain they shall become subject to the laws, rules and regulations governing other public corporations having the right of eminent domain.

§ 2. EMERGENCY.] Whereas, an emergency exists in this, that there is now no law on the statute book for the incorporation and operation of urban electric railways, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 13, 1907.

# RAILROAD COMMISSIONERS

## CHAPTER 213.

[S. B. No. 282—McArthur]

### MEETINGS OF RAILROAD COMMISSIONERS.

AN ACT to Establish Regular Sessions for State Board of Railway Commissioners and Fixing the Time, Manner and Place Where Such Sessions Shall Be Held, and Otherwise Defining Their Powers and Duties; Also Defining the Duties of the Attorney General in Relation Thereto.

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

§ 1. SESSIONS, HELD WHERE AND TIME.] The board of railroad commissioners shall hold five sessions annually for the purpose of hearing complaints and taking evidence. The first session shall be held in the city of Bismarck, county of Burleigh, commencing on the first Tuesday after the first Monday in January of each year. The second session shall be held in the city of Minot, county of Ward, commencing on the first Tuesday after the first Monday in April of each year. The third session shall be held in the city of Fargo, county of Cass, commencing on the first Tuesday after the first Monday in July of each year. The fourth session shall be held in the city of Grand Forks, county of Grand Forks, commencing on the first Tuesday after the first Monday in October of each year. The fifth session shall be held in the city of Carrington, in the county of Foster, commencing on the first Tuesday after the first Monday in December of each year; provided, further, that each of said sessions shall be held for a period of not less than three days, and each session shall begin at 9 o'clock a. m. When practicable, such sessions shall be held in the court houses of the respective counties.

§ 2. SPECIAL SESSIONS.] Whenever from any cause it appears that the public interest demands that a special session of said board be held, the governor may call a special meeting of said board, to be held at any of the places aforenamed, by giving ten days' previous notice thereof by advertisement published in a newspaper at the place where meeting is to be held.

§ 3. EMPLOY STENOGRAPHER.] The board of railroad commissioners is hereby authorized to employ a stenographer whenever said board shall require such services in connection with their official duties.

§ 4. REPORT TO GOVERNOR.] It shall be the duty of the board to report in writing its findings to the governor within ten days after the close of each session.

§ 5. DUTY OF ATTORNEY GENERAL.] It shall be the duty of the attorney general or his deputy to appear for and represent the state at all sessions of the board.

§ 6. REPEAL.] All acts or parts of acts in conflict herewith are hereby repealed.

§ 7. EMERGENCY.] Whereas, an emergency exists this act shall take effect on and after its passage and approval.

Approved March 19, 1907.

# REVENUE AND TAXATION

## CHAPTER 214.

[S. B. No. 306—Simpson]

### ASSESSMENT OF COAL MINES.

AN ACT to Provide for the Assessment of Lignite Coal and Minerals Underlying Lands in Cases of Severed Ownership.

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

§ 1. ASSESSORS LIST COAL MINES, WHEN.] The several assessors within the state shall list for taxation all lignite coal and minerals underlying any and all lands, the ownership of which lignite coal and minerals has been severed from the ownership of the overlying strata, and assess each division of lignite coal and minerals in the county in which it actually lies.

§ 2. EMERGENCY.] An emergency exists in this, that there is now no adequate law taxing lignite coal and minerals reserved sales of land, therefore, this act shall be in force from and after its passage and approval.

Approved March 19, 1907.

## CHAPTER 215.

[H. B. No. 313—Brodie]

### ASSESSMENT LIGNITE COAL LAND.

AN ACT to Provide for the Assessment of Lignite Coal and Minerals Underlying Lands in Case of Severed Ownership.

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

§ 1. LIGNITE COAL LAND ASSESSED.] The several assessors within the state shall list for taxation all lignite coal and minerals underlying any and all lands, the ownership of which lignite coal and minerals has been severed from ownership of the overlying strata, and assess each division of said lignite coal and minerals in the county in which it actually lies.

§ 2. EMERGENCY.] An emergency exists in this, that there is now no adequate law taxing lignite coal and minerals reserved sales of land, therefore this act shall be in force from and after its passage and approval.

Approved March 13, 1907.

## CHAPTER 216.

[H. B. No. 284—Committee on Taxation and Tax Laws.

### ASSESSMENT AND TAXATION OF PUBLIC UTILITIES.

AN ACT Defining Express Companies, Freight Line Companies and Equipment Companies, Telegraph and Telephone Companies and Providing for the Assessment of Their Property and the Taxation of the Same.

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

§ 1. EXPRESS, FREIGHT LINE AND EQUIPMENT, TELEGRAPH AND TELEPHONE COMPANIES DEFINED.] Any person or persons, joint stock association, company or corporation, wherever organized or incorporated, engaged in the business of conveying to, from or through this state, or any part thereof, money, packages, gold, silver, plate or other property by express, on and by passenger and mail trains, shall be deemed an express company; any person or persons, joint stock association, company or corporation, wherever organized or incorporated, engaged in the business of operating cars which are not subject to assessment and taxation under the provisions of sections 1627, 1628, 1629 and 1630 of the revised codes

of North Dakota for 1905, for the transportation of freight, whether such freight be owned by such company or any other person or company, over any railway line or lines in whole or in part within this state, such line or lines not being owned, leased or operated by such company, whether such cars be termed box, flat, coal, ore, tank, stock, gondola, furniture or refrigerator cars or be known by some other name, shall be deemed a freight line company; any person or persons, joint stock association, company or corporation, wherever organized, engaged in the business of furnishing or leasing cars of whatsoever kind or description to be used for the transportation of freight or for the transportation, accommodation, convenience, comfort or safety of passengers, whether such cars be termed freight, sleeping, tourist, palace, parlor, chair or buffet cars, or be known by some other name, in the operation of any railway line or lines wholly or partially within this state, such line or lines not being owned, leased or operated by such company, and such cars not being subject to taxation under said sections of the revised codes of North Dakota, shall be deemed an equipment company; any person or persons, joint stock association, company or corporation, wherever organized or incorporated, engaged in the business of conveying telegraphic messages, shall be deemed a telegraph company; and any person or persons, joint stock association, company or corporation, wherever organized or incorporated, engaged in the business of conveying messages by the use of the telephone or any similarly constructed instrument or device, shall be deemed a telephone company.

§ 2. ANNUAL STATEMENT TO STATE AUDITOR, WHAT TO CONTAIN.] Every company defined in section one of this act, doing business in this state, shall annually, between the first and thirtieth day of June, under oath of the person constituting such company, if a person, or under the oath of its president, secretary, treasurer, superintendent or chief officer if an association, company or corporation, make and file with the state auditor a statement in such form as the state auditor may prescribe, for the year ending June first preceding, containing the following facts: The name of the company; the nature of the company, whether a person or persons, association or corporation, and under the laws of what state or country organized; the location of its principal office; the name and postoffice address of the president, secretary, auditor, treasurer and superintendent or general manager thereof; the name and address of the chief officer or managing agent of the company in North Dakota, if any; the number of shares of capital stock; the par value and market value, or if there be no market value the actual value of its shares of stock on the first day of June of such year; a detailed statement of the real estate owned by the company in North Dakota on the first day of June of such year, where situated and the value thereof; a full and correct inventory of personal property, including money and credits owned by the

company in North Dakota on the first day of June, where situate and the value thereof; the total value of the real estate owned by the company and situate outside the state of North Dakota; the total value of the personal property owned by the company and situate outside the state of North Dakota; the entire gross receipts of the company from whatever source derived for the year ending June first, of business wherever done; the entire gross receipts for the year ending June first, from whatever source derived, of each office within the state of North Dakota, and the total gross receipts of the company for such period in North Dakota; the entire operating and other expenses of such company for such year; the balances of profit or loss for such year; the whole length in miles of the lines or routes over which the company did business in this state during the year ending on the first day of June, and the length of so much of said lines or routes as is without the state and the length of so much of each within each county of the state of North Dakota, naming the lines or routes within this state; such other facts and information as the state auditor may require in the form of returns, to be prescribed by him, to enable the state board of equalization to ascertain the value of the property of such company liable to taxation within this state. Blanks for making the above statement shall be prepared and on application furnished to any company by the state auditor.

§ 3. DUTIES OF STATE BOARD OF EQUALIZATION.] The state board of equalization shall at its annual meeting in August in each year assess the property of such companies doing business in this state with reference to the value of such property on the first day of June of such year. On the meeting of the board of equalization the state auditor shall lay before it the statements and schedules returned to him under section two of this act. The said board shall proceed to ascertain the value of the property of each of said companies in North Dakota and in determining the value of the property of each company to be taxed within the state and assessed as herein provided said board shall be guided by the value of said property as determined by the value of the entire capital stock of said company and such other evidence and rules as will enable said board to arrive at the true value in money of the entire property of said company within the state of North Dakota in the proportion which the same bears to the entire property of said company as determined by the value of the capital stock thereof and the other evidence and rules aforesaid. The board may adjourn from time to time until the business before it is finally disposed of. In case a company fails or refuses to make the statement required by law or furnish the board any information requested the board shall inform itself as best it may on the matters necessary to be known in order to discharge its duties with respect to the assessment of the property of such company. At the annual meeting of the board of equalization aforesaid

and before the assessment of the property of any such company is determined, any company or person interested shall have the right, upon written application, to appear before the board of equalization and be heard in the matter of the valuation of the property of any company for taxation.

§ 4. PENALTY FOR FAILURE TO FILE STATEMENT.] In case any company required to file a statement under the provisions of section two hereof fails to make and file such statement on or before the thirtieth day of June such company shall be subject to a penalty of five hundred dollars and an additional penalty of one hundred dollars for each day's omission after said thirtieth day of June to file such statement, said penalty to be recovered in the name of the state and on collection paid into the state treasury to the credit of the school fund. The attorney general shall institute such action against any company so delinquent. The state board of equalization shall have power to require the president, secretary, treasurer, receiver, superintendent, managing agent, or other officer or employe or agent of any such company, to attend before such board and produce for the instruction of the board any books or papers of such company in his possession, custody or control, and to testify under oath touching the business, property, moneys, credits and value thereof of such company. Any member of the board is authorized and empowered to administer such oath. Any officer, employe or agent of the company so required to appear before such board as aforesaid who shall refuse to produce and submit for the inspection of the board any such books or papers of such company in his possession, custody or control, or shall refuse to answer any question or questions put to him by the state board of equalization, or any member thereof, touching the business, property, moneys, credits and the value thereof of such company, shall be guilty of a misdemeanor, and on conviction thereof before any court of competent jurisdiction shall be fined for each such refusal not more than five hundred dollars or imprisoned in the county jail not more than thirty days, or both such fine and imprisonment.

§ 5. STATE AUDITOR CERTIFIES ASCERTAINED VALUATION TO COUNTY AUDITORS.] The state auditor shall certify to the county auditor of each county within this state the total value of the property of such company in North Dakota as ascertained and assessed by said board, at the same time he certifies the assessed valuation of other property assessed or equalized by said board, and shall also certify the number of miles over which such company operates in such county. The total value of the property of said company in North Dakota as assessed by the state board of equalization shall be apportioned by the state auditor among the several counties in which the company does business in the proportion that the number of miles over which such company operates in each county respectively bears to the entire number

of miles over which such company operates in the state, and the county auditor, upon receiving such certificate shall apportion the valuation therein stated among the cities, towns, villages, townships and other tax districts of his county in proportion to the number of miles operated in each, and the county auditor shall place the apportioned valuation on the tax list and taxes shall be levied and collected thereon, at the same rate and in the same manner as taxes are levied and collected on other property within the state, which taxes shall be in lieu of all other taxes upon all property liable to taxation under this act.

§ 6. VALUATION TAXED FOR STATE PURPOSES ONLY IN UNORGANIZED COUNTIES.] The valuation so apportioned to unorganized counties in this state shall be taxed for state purposes only, and such tax shall be levied annually by the state auditor at the same rate as other property is taxed for state purposes and the state auditor shall notify each company so assessed 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 taxes in the same manner as county treasurers are authorized by law to collect personal property taxes.

§ 7. REPEAL.] All acts and parts of acts so far as same is in conflict with the provisions of this act are hereby repealed.

§ 8. EMERGENCY.] Whereas, there is no law under which the companies mentioned in this act can be taxed within this state, therefore an emergency exists and this law shall be in force and effect from and after its passage and approval.

Approved March 14, 1907.

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## CHAPTER 217.

[S. B. No. 210—Talcott]

### TAXATION OF GRAIN.

AN ACT in Relation to the Taxation of Grain Grown Within this State and Held Therein in Elevators, Warehouses and Granaries.

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

§ 1. RATE FIXED.] All grain grown within the state and held therein in elevators, warehouses and granaries shall be taxed at a fixed rate as follows: Flax at the rate of one half of one cent per bushel; wheat at the rate of three-eighths of one cent per bushel; and oats, barley, corn, speltz and rye each at the rate of one-eighth of one cent per bushel.

§ 2. OTHER GRAIN, HOW TAXED.] All grain other than that specified in section 1 of this act shall be taxed according to its value, and in pursuance of the revenue and taxation laws of this state.

§ 3. DUTY OF COUNTY AUDITOR.] It shall be the duty of the county auditor to extend taxes on the tax lists upon all grain, as shown by the assessment roll, at the rate fixed by this act.

§ 4. TAXES APPORTIONED.] All sums received or collected by the county treasurer under the provisions of this act shall be apportioned and distributed pro rata among the several funds, state, county, school, township and municipal, in proportion to the rates of taxation in the taxing district for which the same is collected.

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

§ 6. EMERGENCY.] Whereas, by constitutional amendment recently adopted, grain grown and held within the state may be taxed at a fixed rate, and it is necessary to make the assessment long before July 1st, therefore, an emergency exists and this act shall take effect upon its passage and approval.

Approved March 8, 1907.

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## CHAPTER 218.

[H. B. No. 207—Midgarden]

### PROPERTY EXEMPT FROM TAXATION.

AN ACT to Amend Section 1484 of the Political Code, Revised Codes of North Dakota, 1905, Relating to Property Exempt from Taxation.

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

§ 1. AMENDMENT.] Section 1484 of the political code of North Dakota, relating to revenue and taxation, is amended so as to read as follows:

§ 1484. 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 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; also all houses used exclusively for public worship and the lots and parts of lots upon which such houses are erected.

2. All land 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 in holding courts, for jails, for county offices, with the ground, not exceeding in any county ten acres, on which buildings are erected.

5. All land, houses and other buildings belonging to any county, township or town used exclusively for the accommodation or support of the poor.

6. All buildings and contents thereof, belonging to institutions of public charity, including public hospitals under the control of religious or charitable societies, used wholly or in part for public charity, 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 this, that there is no mention of charitable institutions and therefore this act shall take effect upon its passage and approval.

Approved March 13, 1907.

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## CHAPTER 219.

[S. B. No. 131—Wagner]

### REQUIREMENTS OF TAX DEEDS.

AN ACT to Amend Section 1597 of the Revised Codes of 1905 of the State of North Dakota, Relative to Duty of County Auditor.

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

§ 1597. DUTY OF COUNTY AUDITOR.] 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 special assessments due

thereon, or if it has been sold for taxes and if there are delinquent taxes or special assessments due or installments of special assessments due, he shall certify to the same, and when the receipt of the county treasurer shall be produced for the said delinquent taxes, or special assessments or installments of special assessments, and for any other delinquent taxes or special assessments or installments of special assessments that may be in the hands of the county auditor for collection, the county auditor shall enter on every deed of real property so transferred over his official signature "delinquent taxes and special assessments or installments of special assessments 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 sale 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 decrees of distribution entered in county courts, 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.

Approved March 14, 1907.

## CHAPTER 220.

[H. B. No. 242—Collins]

### PURCHASE OF LAND SOLD FOR TAXES.

AN ACT to Amend Section 1584 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 1584 of the revised codes is hereby amended to read as follows:

§ 1584. 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, (and the auditor shall cancel such lien from his records), 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 13, 1907.

# SALE OF MERCHANDISE

## CHAPTER 221.

[S. B. No. 194—Turner]

### SELLING STOCKS OF GOODS IN ENTIRETY FORBIDDEN.

AN ACT Providing for the Giving of Notice by Merchants to Their Creditors Before Making Sale of Their Entire Stock or Business.

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

§ 1. FRAUD TO SELL ENTIRE STOCK OF GOODS, WHEN.] A sale of any portion of a stock of merchandise otherwise than in the ordinary course of trade, in the regular and usual prosecution of the seller's business, or a sale of an entire stock of merchandise in gross, will be presumed to be fraudulent and void as against the creditors of the seller, unless the seller and purchaser shall at least five days before the sale make a full detailed inventory showing the quantity and, so far as possible, with the exercise of reasonable diligence, the cost price to the seller of each article to be included in the sale, and unless such purchaser shall at least five days before the sale, in good faith, make full, explicit inquiry of the seller as to the names and places of residence of each and all of the creditors of the seller and the amount owing each creditor, and unless the purchaser shall at least five days before the sale, in good faith, notify or cause to be notified, personally or by registered mail, each of the seller's creditors of whom the purchaser has knowledge, or can with the exercise of reasonable diligence acquire knowledge of said proposed sale, and of the said cost price of the merchandise to be sold, and of the price proposed to be paid therefor by the purchaser. The seller shall at least five days before such sale fully and truthfully answer, in writing, each and all of the said inquiries.

§ 2. PRESENT RULE OF EVIDENCE CONTINUED.] Except as expressly provided in this act, nothing therein contained nor any act thereunder shall change or affect the present rules of evidence or the present presumptions of law.

§ 3. EMERGENCY.] Whereas, there is no law now covering the above subject; therefore, an emergency is deemed to exist and this law shall take effect and be in force from and after its passage and approval.

Approved March 8, 1907.

# SCHOOL DISTRICTS

## CHAPTER 222.

[S. B. No. 24—Taylor]

### REPORTS OF TREASURERS OF INDEPENDENT SCHOOL DISTRICTS.

AN ACT to Amend Section 1016 of the Revised Codes of 1905, Relating to Report by City Treasurer of Receipts and Disbursements of Moneys of Independent School Districts.

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

§ 1. AMENDMENT.] Section 1016 of the revised codes of 1905 is amended to read as follows:

§ 1016. REPORT OF CITY TREASURER. PUBLICATION.] It shall be the duty of the city treasurer to prepare and submit to the board at its next meeting after January 1st, April 1st, July 1st and October 1st in each year a quarterly statement showing the receipts and disbursements of money under and pursuant to this article during the preceding quarter, in which shall be set forth under appropriate heads:

1. The money raised by the board under section 1003.
2. The school moneys received from the county treasurer.
3. The money received under section 1006.
4. All money received by the city treasurer subject to the order of the board, specifying the sources from which it accrued.
5. The manner in which all money has been expended, specifying the amount under each head of expenditures.

The city treasurer shall cause each of such statements to be published once in the official paper of the city at the time the same are submitted to the board.

Approved March 14, 1907.

# CHAPTER 223.

[H. B. No. 296—Blegen]

## SPECIAL SCHOOL DISTRICTS.

AN ACT to Amend Sections 938, 939, 940, 941 and 943 of the Revised Codes of 1905 of the State of North Dakota, Relating to 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. AMENDMENTS.] Sections 938, 939, 940, 941 and 943 of the revised codes of 1905 of the state of North Dakota, be and the same are hereby amended and re-enacted so as to read as follows.

§ 938. ORGANIZATION OF SPECIAL DISTRICTS.] Whenever any platted or 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, alone or with contiguous territory, and the property and indebtedness of such organized school district divided as hereinafter provided.

§ 939. PETITION. DUTY OF COUNTY SUPERINTENDENT.] In such cases a petition signed by a majority of the voters of such school district, including women who are legal voters, as shown by the last 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 together with such territory contiguous thereto as may be described in said petition into a special school district, and setting forth in detail the boundaries of such proposed special districts, the manner and terms of the division of the property, real and personal, and the indebtedness, bonded or otherwise, of such school districts as desired by the petitioners, and thereupon such superintendent shall within five days call an election to be held in such proposed special school district, incorporated city, town or village, and an election to be simultaneously held in that portion of such school district, situated outside of such proposed special school district, city, town or village.

§ 940. NOTICE GIVEN. ELECTION, HOW HELD.] 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 proposed special school district, city, town or village in five public places in said district outside of such proposed special school district, city, town or village. Such notices shall be posted or published

not less than ten days nor more than fifteen days before such an election. 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 result of such elections shall be certified and delivered to such superintendent within three days after the close of the polls.

§ 941. BALLOTS, HOW PRINTED.] There shall be printed on the ballots used at such elections the following statement: "For the division of (here state the name of the district to be divided) and the division of its property and debts as follows: (Here state the boundaries of the proposed special school district and 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.

§ 943. DISTRICTS CONSTITUTED.] If such elections shall each be in favor of the division of such school district, such proposed special school district, city, town or village shall thereafter constitute a special school district, and such original school district situated outside of such special school district, city, town or village shall constitute a school district.

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

Approved March 13, 1907.

# SCHOOL LANDS

## CHAPTER 224.

[S. B. No. 27—Strom]

### INVESTMENT OF SCHOOL AND INSTITUTION LAND FUNDS.

AN ACT to Amend Section 155 of Chapter 4 of the Political Code of the State of North Dakota, and All Acts or Parts of Acts Amendatory Thereof, Providing for the Investment of Moneys Belonging to the Permanent Funds of the Common Schools, University, School of Mines, Reform School, Agricultural College, School for the Deaf and Dumb, Normal Schools and All Other Permanent Funds Derived From the Sale of Public Lands or Any Other Source Belonging to the School Divisions of the State.

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

§ 1. AMENDMENT.] Section 155 of the political code of the state of North Dakota, and all acts or parts of acts amendatory thereof, are hereby amended to read as follows:

§ 155. BOARD INVESTS FUNDS. COMPENSATION OF BOARD. CONDITIONS OF LOANS.] Said board shall have power, and it is made its duty from time to time to invest any money belonging to the permanent funds of the common schools, university, school of mines, reform school, agricultural college and the school for the deaf and dumb, normal schools and all other permanent funds derived from the sale of public lands or from any other source, in bonds of school corporations or counties or townships within the state, bonds of the United States, bonds of the state of North Dakota, municipal bonds, or first mortgages on farm lands in the state, not exceeding in amount one-third the actual value of any subdivision on which the same may be loaned, said value to be determined by the board of appraisal of school lands; provided, that for said services as such board of appraisal, the county auditor and county superintendent of schools shall receive only their necessary traveling expenses, but that the chairman of the board of county commissioners shall be entitled to the same mileage and per diem as when serving on the board of county commissioners. The first mortgages on farm lands in this state shall be made only in the manner following, to wit:

1. The first mortgages on farm lands and each of them, shall run for a period of time not to exceed twelve years, and the funds so invested shall bear interest at the rate of five per cent per annum, payable annually to the county treasurer of the county in which such lands lie, as provided in section 192 of the revised codes of 1905. For the first five years payments shall consist only of interest, paid annually, and commencing with the sixth year the interest shall be paid annually as above stated and the borrower shall have his option of paying ten per cent or any multiple thereof of the principal at any interest bearing date, and the interest when paid shall be covered into and become a part of the interest and income fund.

2. 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 per acre, and in sums not more than five thousand dollars to any person, firm or corporation.

3. Any or all of said mortgages may be satisfied at any time after three years from the date when made on payment of the whole amount due thereon; provided, if the loan is sought to be paid off in full previous to the time specified for payment in the contract, then the party so paying said loan shall pay in addition to the interest then due on such loan the interest on the same for six months in advance of date of such payment on the whole amount remaining due in such payment. All proceedings in regard to investments in first mortgages as provided in this chapter shall conform to and be governed by the laws of the state of North Dakota in such case made and provided. Said board of university

and school lands shall not purchase or approve the purchase of any bonds or mortgages except at a legal session thereof, nor unless every member of the board is notified by the secretary of said board in time to be present at such meeting, and notified also that the question of purchasing or acting on a proposition for the purchase of certain bonds or mortgages is to be considered at the meeting, nor unless a majority of all the members vote in favor of such purchase, and the vote on the purchase of every bond and mortgage shall be taken by the yeas and nays and shall be duly recorded in the books of the board.

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

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

Approved March 19, 1907.

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## CHAPTER 225.

[S. B. No. 286—Koffel]

### SCHOOL LAND CONTRACTS.

AN ACT to Authorize Holders of State or School Land Contracts for Lands Over Which Railroads Have Been or May Be Located and Established Subsequent to the Issuance of Such Contracts, to Surrender Such Contracts, and Obtain New Contracts for the Land Less the Rights-of-Way Required for Such Railroad, and Providing for the Payment to the State of the Balance of the Purchase Price of the Land Required for Such Rights-of-Way and Issuance of Deeds Therefor.

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

§ 1. CONTRACT MAY BE SURRENDERED. RAILROAD RIGHT-OF-WAY. NEW CONTRACT.] Whenever any holder of any contract for purchase of any state or school land shall surrender the same to the board of university and school lands, and shall present satisfactory evidence that a railroad has been located and established across the land covered by such contract subsequent to the issuance thereof, and shall file a plat of such land showing the exact location, width and area in acres of the land required for right-of-way for such railroad across said land, and shall pay to the state treasurer the balance of the purchase price under said contract and all interest and taxes thereon to date for the acreage taken for such railroad right-of-way, and shall make application in writing that such contract be cancelled and that new contract be issued to such applicant for the land less the acreage taken for

such railroad right-of-way, it shall be lawful for the board to cause such new contract to be issued and to issue a deed to the railroad company for the land so deducted from the tract embraced in the original contract, and required for such right-of-way; provided, that the commissioner of university and school lands shall charge and collect a fee of five dollars for each new contract and each deed so issued, which fee shall be paid to the state treasurer and become a part of the expense fund of the board of university and school lands.

Approved March 19, 1907.

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## CHAPTER 226.

[S. B. No. 287—Koffel]

### CONTRACTS FOR SCHOOL LANDS.

AN ACT to Amend Section 183 of the Revised Codes of 1905 of Chapter 4 of the Political Code of the State of North Dakota, Providing for the Surrender of State or School Land Contracts and Division of the Land Covered Thereby, and the Issuance of New Contracts for Such Subdivisions.

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

§ 1. CONTRACTS MAY BE SURRENDERED AND TWO OR MORE ISSUED, WHEN.] Whenever the holder of any contract of purchase of any state or school land shall surrender the same to the commissioner with a written request to have the same divided into two or more contracts, it shall be lawful for the commissioner to issue the same: provided, that no new contracts shall issue while there is due and unpaid any interest, principal or taxes on such contract or the land described therein, nor in any case where the commissioner shall be of the opinion after an examination of the land, if necessary, that the security would be impaired or endangered by the proposed division, nor until such application for division shall have been approved by the board of university and school lands: provided, that when any such application proposes the division of the land into irregular tracts or other than the regular government subdivisions, the applicant shall file with the commissioner a plat of the land to be subdivided, showing the boundaries and area in acres of each subdivision, and for any contract division made under this section the commissioner shall charge and collect a fee of five dollars for each new contract issued, which fee shall be paid into the state treasury and become a part of the expense fund of the board of university and school lands.

Approved March 19, 1907.

# CHAPTER 227.

[S. B. No. 160—Purcell]

## SCHOOL LAND PURCHASERS.

AN ACT to Amend Section 182 of the Revised Codes of 1905, Relating to the Assignee of Purchasers of School Lands.

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

§ 1. AMENDMENT.] Section 182 of the revised codes of 1905 be and the same is hereby amended to read as follows:

§ 182. ASSIGNEE OF PURCHASERS AND BUYERS OF PURCHASERS' INTEREST.] Each assignee of a bona fide purchaser of any of the lands mentioned in this article is subject to and governed by the provisions of law applicable to the purchaser of whom he is assignee, and he shall have the same rights in all respects as an original purchaser of the same class of lands. The interest of a purchaser of any of the lands mentioned in this article that shall have been heretofore or may hereafter be levied upon or attached in any action brought to recover a debt due from said purchaser of said lands and the interest of said purchaser which has heretofore been or may hereafter be sold under execution and a certificate of sale may have been or shall hereafter be issued by the sheriff of the county to the party buying at said sale the interest of said purchaser of said lands and after the expiration of one year from the date of sale, the buyer of the interest of said purchaser of said lands may present to the land commissioner of this state a certificate of the sheriff of the county in which the land is situated showing said sale and the name and address of the person buying thereat and also showing that one year has elapsed between the date of sale of said land and the date of making said certificate, also showing that no redemption has been made by the purchaser of said land, his assignee or successor in interest or anyone in behalf of either and showing that no claim of homestead has been made to said land by anyone. On the filing of said certificate in the office of the land commissioner of the state of North Dakota the said land commissioner shall subrogate the person who bought the interest of the purchaser of said lands at said sale, to the contract of purchaser and to all rights of said purchaser of said lands in and to said lands and said person so subrogated shall carry out and perform said contract of purchase with said state in all particulars, and at the expiration of said contract and on the full performance thereof, the person so subrogated shall receive from the state of North Dakota a deed to said land.

§ 2. EMERGENCY.] Whereas, there is no law now providing for the sale of the interest of a purchaser of school land; therefore,

it is deemed that an emergency exists and that this law shall be in force from and after its passage and approval.

Approved March 8, 1907.

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## CHAPTER 228.

[H. B. No. 1—Stevens]

### INVESTMENT OF PERMANENT SCHOOL FUNDS.

AN ACT to Amend Section 155 of Chapter 4 of the Political Code of the State of North Dakota, Providing for the Investment of Moneys Belonging to the Permanent Funds of the Common Schools, University, School of Mines, Reform School, Agricultural College, School for the Deaf and Dumb, Normal Schools, and all Other Permanent Funds Derived from the Sale of Public Lands or Any Other Source Belonging to the School Divisions of the State.

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

§ 1. AMENDMENT.] Section 155 of the political code of the state of North Dakota is hereby amended to read as follows:

§ 155. BOARD TO INVEST SCHOOL AND INSTITUTION FUNDS.] Said board shall have power, and it is made its duty, from time to time to invest any money belonging to the permanent funds of the common schools, university, school of mines, reform school, agricultural college, and school for the deaf and dumb, normal schools and all other permanent funds derived from the sale of public lands or from any other source, in bonds of school corporations or counties or townships within the state, bonds of the United States, bonds of the state of North Dakota, municipal bonds, or first mortgages on farm lands in the state, not exceeding in amount one-third the actual value of any subdivision on which the same may be loaned, said value to be determined by the board of appraisal of school lands.

1. The said first mortgages on farm lands and each of them, shall run for a period of time not to exceed ten years and that the funds so invested shall bear interest at the rate of six per cent per annum, said interest together with ten per cent of the whole amount of the principal to be paid in annual installments and the interest when paid shall be covered into and become a part of the interest and income fund.

2. First mortgage loans shall only be made upon cultivated lands within the state, and to persons who are actual residents thereof, and in no cases on lands of which the appraised value is less than seven dollars and fifty cents per acre, and in sums not more than one thousand dollars to any person, firm or corporation.

3. Any or all of said mortgages may be satisfied at any time after five years from the date when made on payment of the full amount due thereon. All proceedings in regard to investments in first mortgages as provided in this chapter shall conform to and be governed by the laws of the state of North Dakota in such case made and provided. Said board of university and school lands shall not purchase or approve the purchase of any bonds or mortgages except at a legal session thereof nor unless every member of the board is notified by the secretary of said board in time to be present at such meeting, and notified also that the question of purchasing or acting on a proposition for the purchase of certain bonds or mortgages is to be considered at the meeting, nor unless a majority of all the members vote in favor of such purchase, and the vote on the purchase of every bond and mortgage shall be taken by the yeas and nays and shall be duly recorded in the books of the board.

§ 2. EMERGENCY.] Whereas, an emergency exists in that there is now no law governing the provisions of this bill, therefore this act should take effect and be in force from and after its passage and approval.

Approved January 16, 1907.

# SEWERS

## CHAPTER 229.

[S. B. No. 250—Movius]

### ESTABLISHING SEWER SYSTEMS.

AN ACT to Amend Section 2771 of the Revised Codes of North Dakota, 1905, Regulating Sewers.

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

§ 1. AMENDMENT.] Section 2771, of the revised codes of North Dakota of 1905, is amended to read as follows:

§ 2771. SYSTEM OF SEWERAGE.] The city council shall have power to establish and maintain at any time a general system of sewerage for the city, in such manner and under such regulations as the council shall deem expedient, and to alter or change the same rom time to time as the council may deem proper; provided, that no action shall be taken for the establishment of a system of sewerage except upon the affirmative vote of two-thirds of the members

of the city council; and provided, further, that when such system of sewerage is established, all measures necessary for the construction of sewers, as a part of that system, may be taken by a vote of the majority of the city council; and provided, further, that when it shall be necessary to conduct the sewerage beyond the city limits, the city council shall have power, by purchase or condemnation proceedings, to acquire private property over which to construct such sewer, and the cost thereof and of building such sewer over the same shall be included in the cost of such system of sewerage and in the special assessment levied therefor; and provided, further, that any city may empty or discharge its sewerage into any river, but where a dam on such river is located within the corporate limits of any city, the sewerage shall in such cases be discharged below such dam; and provided, further, that in case there is no river accessible into which to discharge such system of sewerage, the same may be discharged into a lake, coulee or slough, and in any of the latter cases a septic tank system shall be employed for sewerage from closets, kitchen-sinks or anything carrying objectionable matter, prior to discharging same into the lake, coulee, slough or other outlet, but that any drainage from basements, cellars or surface may be discharged direct into the lake, coulee, slough or other outlet, prior to emptying into the main sewer system, but that any drainage from basements, cellars or surface may be admitted direct into the main sewer system without first passing through the septic tank system.

§ 2. EMERGENCY.] An emergency is hereby declared to exist, and this act shall take effect and be in force from and after its passage and approval.

Approved March 8, 1907.

# STATE EXAMINER

## CHAPTER 230.

[S. B. No. 113—Regan]

### STATE EXAMINER.

AN ACT to Amend Section 140 of the Revised Codes of 1905, Relating to the Appointment and Qualifications of the State Examiner.

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

§ 1. AMENDMENT.] Section 140 of the revised codes be and the same is hereby amended and re-enacted so as to read as follows:

§ 140. APPOINTMENT. 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 bookkeeping, 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, agent or employe of any banking, annuity, safe deposit, trust company, moneyed or savings institution or corporation, or of any corporation engaged in the business of guaranteeing or insuring the fidelity or faithful performance of the duties of, or the solvency of public officers or of public depositories, created under the laws of North Dakota, or created under the laws of any other state, or under the laws of the United States. In case of vacancy by 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, or becomes disqualified under the provisions of this section, and to appoint his successor, who shall hold office until the end of the next legislative assembly, unless sooner removed as above provided.

Approved March 19, 1907.

# STATE FLOWER

## CHAPTER 231.

[S. B. No. 134—Hanna]

### STATE FLOWER NAMED.

AN ACT Establishing and Naming a State Flower for the State of North Dakota.

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

§ 1. NAMED.] On and after the passage of this act the state floral emblem of North Dakota shall be the wild prairie rose (*rosa blanda* or *arkansana*).

§ 2. EMERGENCY.] An emergency is hereby declared to exist and this act shall take effect and be in force from and after its passage and approval.

Approved March 7, 1907.

# STATE INSTITUTIONS

## CHAPTER 232.

[H. B. No. 297—Peake]

### UNIFORM SYSTEM OF ACCOUNTING FOR PUBLIC INSTITUTIONS.

AN ACT to Provide for a Uniform System of Accounting by the State Institutions of North Dakota, Prescribing the Books, Forms, the Duties of the Accounting Officer, the State Auditor and the Institution Treasurer, With Regard to Such Uniform System of Accounting; Also Prescribing the Forms of Checks and Receipts to be Used and the Manner of Accounting to the State Auditor and the State Treasurer.

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

§ 1. STATE INSTITUTIONS TO DESIGNATE AN ACCOUNTING OFFICER.] The managing board of each of the state institutions shall designate an accounting officer. They shall also designate either the accounting officer or some other officer of the institution to act as a purchasing agent, whose duty it shall be to purchase all goods and supplies needed for the institution under such rules and regulations as the managing board shall prescribe.

§ 2. DUTIES OF ACCOUNTING OFFICER.] The accounting officer of each institution shall keep or supervise the financial accounts of the institution and shall perform such other duties as shall be prescribed by law or the managing board of the institution. He shall receive all miscellaneous collections to the credit of the institution from the sales of public property, board of inmates, labor of inmates, or from any other source, and he shall in all cases issue a receipt therefor. He shall, on the last business day of each month, draw an order on the institution treasurer in favor of the state treasurer for the amount of all miscellaneous receipts collected during the month. He shall forward therewith a statement showing from what source received and to what account or accounts such collections shall be credited.

§ 3. DESCRIBING BOOKS TO BE USED, FORMS OF SUCH BOOKS, FORMS OF VOUCHERS, RECEIPTS, CHECKS. RECEIPT TO TAKE PLACE OF DUPLICATE VOUCHER TO STATE AUDITOR. FORMS OF EXPENSE LISTS.]

1. *Voucher.* The voucher shall give the date, the name of the party to whom payment is due, the address of the person or company making the bill, and on the bottom of such voucher form shall be blank places to be used to show the approval of such voucher by the board of trustees and the approval as to the receipt of the goods or performance of services by the superintendent or

accounting officer of the institution. Such voucher shall have on the back thereof a blank line for the number of the voucher and blank lines to show out of what fund and for what account such voucher was rendered, and it shall have the form of oath required for vouchers against the state. All vouchers must be verified by this oath and in cases where invoices are from merchants for goods, contract work, etc., such original bill may be attached to the voucher before described. All vouchers or bills shall be fully itemized, prices and quantity furnished, discounts and such other information as may be necessary to make the bill clear shall be given. Vouchers shall be presented monthly to the accounting officer of the institution.

2. *Check With Receipt Attached.* The check shall be of the ordinary form and shall have the classification of accounts as carried on the books of the institution printed at the left end and shall have attached a receipt the size of the check and perforated so as to be easily detached. The check and receipt shall be numbered the same number and when a check is written, entry shall be made in the classification in the margin to show from what account and fund it is to be paid. The same information shall be placed on the check receipt and both presented to the person who is receiving payment. The receipt shall be for the same amount as the check and it shall be required that such receipt is signed before said check is cashed by the treasurer. The receipt shall not be detached by any other person than the accounting officer of the institution and the check shall be non-payable until such receipt is signed. The signature to appear on the check shall be that of the accounting officer of the institution and such check shall be countersigned by any official of the institution that the board of trustees may see fit to designate. It is further provided that in case payment is to be made of the claim of some person or company whose place of business is located so that it would be desirable to send a bank draft in payment, then, and in that case, the check may be presented to the bank and the cashier of the bank issuing draft may sign the receipt and such receipt shall be considered good evidence of receipt of payment when the number of the draft and amount are noted on the receipt by the cashier of the bank signing same, and the state auditor shall accept such receipt as though it were signed by the party to whom the check was issued. It is further provided that the last mentioned check shall appear on the records as written to the person or company presenting the claim. The checks shall be numbered consecutively and all numbers shall be accounted for. In case a check is spoiled the same shall be marked "canceled" and filed in its numerical order in the files of the accounting officer of the institution. The check shall be drawn on the treasurer of the institution and shall show who or what bank is treasurer to such institution.

3. *Expense List.* The expense list shall be filed monthly and shall be made to cover the calendar month. Each voucher making up the month's expense list shall be listed separately on the expense list and such voucher or invoice shall be numbered in the left hand margin and there shall be shown the name of the person or company to whom payment is due and the address of such person or company. Following shall be given the full itemized invoice as presented for payment. The itemized invoice shall show the date or dates on which goods were purchased or services performed and the number of such invoice shall be the number of the check which is used in payment of such invoice or claim. After each invoice shall be shown against what fund and account such invoice is a charge. It is hereby further provided that any institution may continue the use of a pay roll; but that such pay roll shall be itemized in the expense list the same as though each person had filed a separate voucher and each person's account on said pay roll shall be given the number of the check the same as other vouchers or claims. Any institution may make up its pay roll on the last day of the month and when such pay roll is certified to by the accounting officer and the superintendent of the institution and forwarded to the state auditor the state auditor shall be authorized to make payment of the pay roll that the employes and officials of the institution may receive their money regularly on the first of the month. The pay roll thus made at the end of the month need not be approved by the board of trustees before payment, but they shall approve such pay roll when they approve the expense list for the month's business. The total amount of the pay roll shall be deducted from the total amount of the expense list when the state auditor makes payment of the said expense list.

4. *General Ledger.* The accounts and funds in total shall be kept in the general ledger and there shall be shown the total credit to each account or each fund, the total payments against each account or fund for the month and the balance in each account or fund at the end of the month. In the first column shall be listed the names of the accounts and the funds, then classified under the month shall be columns to show the total credits, the payments and the balance; provided, that where an account is carried for interest and income fund, one mill tax fund and appropriation accounts, three separate columns shall be carried for each month's classification for the three accounts mentioned.

5. *Payment Register.* The payment register shall show: first, the date on which the check was issued, the number of check, the name of the person or company to whom check was issued, a small column in which to check off the payment when checks are returned from the institution treasurer, and following a classification of accounts such as are necessary to cover the institution business. The check shall be numbered the same as the voucher which it is in payment of and the amount shall be carried into the proper

classification column in the payment register. At the end of the month each column shall be totaled and the amount carried to the payment column of the general ledger opposite the proper fund or account to which the total payment should be charged.

6. *Collection Receipt.* The accounting officer shall issue a receipt to every person paying money to the credit of the institution and shall deliver the original to the person making such payment. The duplicate shall be preferably a carbon copy and shall be numbered consecutively as the original. The duplicate shall be filed in the office of the accounting officer of the institution and all numbers shall be accounted for. The receipt shall give the date of collection, from whom received, from what source received, and to what fund or funds credit shall be given. The accounting officer shall issue "dummy" receipts account of appropriations made by the legislature and shall enter such receipt on the books as though they were collections in the ordinary manner, but shall not consider such credits as cash. In case of payment of mill tax or interest and income fund the accounting officer shall issue therefor receipts, the original shall be forwarded to the state auditor after having been entered upon the collection register. This provision is made to provide a record to show from what sources all credits are taken. It is further provided that in cases where the collections account of miscellaneous items shall be in amounts of less than one dollar the accounting officer shall have the privilege of entering such miscellaneous collections in a small book kept for that purpose showing the date and the name of the person from whom received, also the amount and a credit to what fund and he shall at the end of the month write a receipt to cover the total of such miscellaneous payments.

7. *Collection Register.* A collection register shall be used and shall be in the following form: First shall be shown the date of the issuance of such receipt; second, the number of receipt; third, to whom issued; fourth, the total amount of receipt, and following, a classification of the accounts and funds of the institution. The receipts shall be entered in numerical order and all receipts shall be accounted for. At the end of the month the several columns in this book shall be totaled and the totals carried into the credit column of the general ledger opposite and to the credit of the fund or account to which it shall be a credit.

§ 4. EXCEPTIONS.] It is further provided that any institution now using a government form of accounting shall not be required to use the system herein provided if the said system shall necessitate the using of two sets of books in order to comply with the government system of accounting. But such parts of this system shall be used as can be used without interfering with the system provided by the government.

§ 5. STATE AUDITOR MAKES FORMS.] It is hereby made the duty of the state auditor to make up the forms for the several

institutions and to aid in the installment of the new system in the institutions of this state as soon as can conveniently be done. He shall have the right to recommend and make such changes in the system herein described as he believes will be of benefit both to the state and to the institution.

§ 6. EMERGENCY.] Whereas, the systems of accounting now differ greatly and render the examination and checking of accounts difficult, and it is further desired that the system of accounting be as nearly uniform as possible, therefore this act shall be in force and effect after its passage and approval and the system herein described shall be put into use by the institutions as soon as the forms can be ruled up and the books and blanks furnished.

Approved March 13, 1907.

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## CHAPTER 233.

[S. B. No. 338—Crane]

### REPORT ON STATE INSTITUTIONS.

AN ACT Requiring the Governor to Furnish Each Legislative Assembly a Financial and Statistical Report on State Institutions, Requiring Institutional Trustees to Furnish Data Demanded by the Governor for this Purpose and Providing for Payment of the Necessary Clerical and Printing Costs of Such Statements.

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

§ 1. GOVERNOR TO FURNISH BUSINESS REPORTS ON STATE INSTITUTIONS.] It shall be and is hereby declared to be the duty of the governor to submit to each legislative assembly a detailed report of all monies appropriated by the preceding legislative assembly for state institutions, together with a summary of expenditures of each of such institutions, said summary to be dated December first of each even numbered year, and of a form which will show the following items, viz:

1. Cost of the boards of directors, per diem and for mileage.
2. For salaries of presidents, superintendents or managers and their deputies or chief assistant.
3. Salaries of each member of every faculty.
4. Amounts paid for maintaining summer schools.
5. Amounts expended for janitor service.
6. Amounts expended for guards and other employes, together with the number of each.
7. Amounts expended for fuel; kind of fuel used; average price per ton.
8. Amount expended for light service.

9. Amount expended for water service, and how measured.

10. Amount expended for new buildings, stating outside dimensions and what purpose used for.

11. Amount expended for repairing buildings.

12. Amount expended for improvement of grounds.

13. Amount expended for groceries, provisions and household supplies.

14. Amount expended for clothing.

15. Amount expended for school and library books.

16. Amount expended for scientific and school apparatus and office sundries.

17. Memorandum of sums appropriated by the preceding legislative assembly.

18. Balance on hand of the various amounts appropriated or set aside by the last legislative assembly.

Such report shall also state number of scholars regularly enrolled in each educational institution, the number of such scholars who are not residents of this state, the number who pay tuition fees over and above the matriculation or incidental fees, the number of summer school scholars, and the average attendance at such institution for each year of the biennial period of regularly enrolled students; the average number of inmates in each charitable institution for the same period, and the average number of prisoners confined in each penal institution for the like period, together with the average cost of maintenance each year of the individual scholar, inmate or prisoner, and in determining such cost, items 10, 11, 12, 17 and 18 only shall be eliminated, but every institution producing a portion of its supplies shall be allowed a fair net valuation on same as an offset to direct cost of other supplies in determining such per capita cost of conducting.

§ 2. SUPPLYING DATA FOR REPORTS.] Upon demand therefor, the trustees of every state institution shall forward to the governor any data, statistics or such other information as may be required by him as a basis for making statements or reports called for under section one of this act.

§ 3. PROVISION FOR PAYMENT OF COSTS OF REPORTS.] The purpose of this act being the submission to each legislative assembly of an up to date business like statement of state institutional business, the governor is hereby authorized to employ in formulating said statement or report, such clerical help as he shall deem necessary and have said statement printed at such cost and place as he shall deem proper; provided, that no more than two hundred copies of such biennial report shall be printed; and the state auditor shall draw his warrant upon the state treasurer for bills rendered for services under this act after such bills are approved by the governor.

Approved March 19, 1907.

## CHAPTER 234.

[S. B. No. 233—Senate Committee on Judiciary]

### REGULATING INSTITUTION APPROPRIATIONS

AN ACT Making it Unlawful for Boards of Trustees, Commissioners, Directors, Regents, Person or Persons Having Control or Management of the State Institutions of North Dakota to Expend Amounts in Excess of Appropriation, Providing for Monthly Reports to the Governor, and Repealing Sections 1283 and 1284 of the Revised Codes of the State of North Dakota of 1905.

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

§ 1. UNLAWFUL TO EXCEED APPROPRIATION.] It shall be unlawful for any board of trustees, commissioners, directors, regents, person or persons having the control or management of public institutions of the state, or having in any manner whatsoever the responsibility of disbursing or expending any money appropriated by the state, either directly or indirectly, or in any manner whatsoever to expend, or agree to contract to expend, for the use or benefit of any institution or purpose, any amount in excess of the sum appropriated for such institution or purpose, nor shall any amount appropriated for any specific purpose or fund be used for or transferred to any other purpose or fund.

§ 2. MONTHLY REPORT REQUIRED.] It shall be the duty of the chairman of the board of trustees, commissioners, directors, regents, or person or persons mentioned in section one of this act, to make an itemized report to the governor, under oath, on or before the 15th day of each month, showing the amount of money expended and for what purpose and showing what contracts have been made involving the expenditure of money in the future. The time covered by such report shall be the calendar month next preceding the date of said report. Any person or officer mentioned in this act who shall fail to comply with the provisions of this act shall be deemed guilty of a felony.

§ 3. PENALTY FOR FAILURE.] If any of the persons mentioned in section two hereof shall fail to make the report as therein provided, or if the report as made to the governor shall show that there is reason to believe that the provisions of section one hereof have been violated, it shall be the duty of the governor to promptly notify the attorney general of such violation and the attorney general shall prosecute such person for the violations of the provisions of this act; provided, that when in the belief of any such board, person or persons, an emergency exists, and the interests of the state are jeopardized by reason of the exhaustion of the amount appropriated, or by cause for which there is no provision of law, the

matter with all relative facts, shall be referred to a commission consisting of the governor, secretary of state and state auditor, who may authorize the transfer of money from one fund to another fund of the same institution or purpose, or who may in extreme cases authorize money to be drawn from the state treasury to meet the emergency.

§ 4. REPEAL.] Sections 1283 and 1284 of the revised codes of the state of North Dakota of 1905 are hereby repealed.

Approved March 19, 1907.

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## CHAPTER 235.

[S. B. No. 215—Kraabel]

### INVENTORY OF STATE PROPERTY.

AN ACT Requiring the Party in Charge of a State Institution to Make an Inventory of Property Therein.

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

§ 1. INVENTORY REQUIRED.] The person in charge of any state institution in this state shall, on the first Monday in July of each even numbered year, make a complete inventory of all property contained in or used in connection with such state institution, and within thirty days thereafter, said person shall transmit said inventory, with his certificate thereto attached as to the correctness of the same, to the governor of this state.

Approved March 8, 1907.

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## CHAPTER 236.

[S. B. No. 285—Taylor]

### EXPERIMENTAL TESTS BY SCHOOL OF MINES.

AN ACT to Foster the Development of Mineral and Allied Industries by Providing for Experimentation, Encouragement, Publicity and Practical Tests Under the Direction of the School of Mines.

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

§ 1. TESTS, WHAT OF BULLETINS PUBLISHED.] In order to aid in the development of our mineral resources and manufacturing industries and to keep good faith with the United States government in accepting the land grant and to further the purpose of

the grant, the board of trustees of the state university and school of mines are directed to provide suitable means for experimentation and practical testing of the mineral and other allied resources in order to demonstrate their fitness for mining and manufacturing industries. It shall be the duty of the dean of the school of mines to make or to cause to be made by suitable persons, as rapidly as may be, exhaustive and practical tests of all mineral and allied resources to show the exact value and uses of all these materials, as well as the best and most economical methods of extracting and manufacturing. The products thus derived shall be properly labeled and kept for public inspection in the museum of said school of mines, excepting at such times as these products may be needed as displays for the purpose of securing the development of industries. Investigations and practical tests shall be made to obtain a cheap and efficient method of lignite coal briquetting and to show by actual tests the best methods of burning lignite; to determine the possibility of utilizing lignite as a gas producing material and also for power and lighting; to determine the value of sandstones and other stones for building material; to test clays for tableware, earthenware, stoneware, sewer pipe, etc.; to take up other resources for practical testing as opportunity is afforded. In order that the greatest possible good may come from the practical testing and other provisions of this law, and in order to promote the development of the mining and allied manufacturing industries, bulletins shall be published from time to time by the school of mines announcing the progress and results of all tests and investigations and giving as much aid as possible relative to the best methods of mining, handling, treating and manufacturing the various mineral products of the state. A biennial report shall be issued.

Approved March 4, 1907.

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## CHAPTER 237.

[S. B. No. 109—Cashel]

### INSTITUTION FOR FEEBLE MINDED.

AN ACT Amending Sections 6, 8 and 9 of Chapter 108 of the Laws of 1903, Being Sections 1165, 1167 and 1168 of the Revised Codes of 1905, and Repealing Chapter 76 of the Laws of 1905, in so far as the Same Applies to the Institution for Feeble Minded.

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

§ 1. AMENDMENT.] Section 6 of chapter 108 of the laws of 1903, being section 1165 of the revised codes of 1905, is amended so as to read as follows:

§ 1165. WHO ADMITTED.] All feeble minded persons residents of this state who, in the opinion of the superintendent, are of suitable age and capacity to receive instruction in this institution, and whose defects prevent them from receiving proper training in the public schools of the state, and all idiotic and epileptic persons residents of this state may be admitted to and receive the benefits of this institution subject to the payment of the sums hereinafter fixed and to such rules and regulations as may be made by the board of trustees.

§ 2. AMENDMENT.] Section 8 of chapter 108 of the laws of 1903, being section 1167 of the revised codes of 1905, is amended so as to read as follows:

§ 1167. PAYMENTS REQUIRED.] The person legally responsible for the support of any person heretofore or hereafter admitted to said institution shall pay semi-annually to the superintendent of said institution the sum of fifty dollars; but, if the person so liable, be unable to pay such sum, for which inability the certificate of the county judge of the county from which said person is admitted shall be prima facie evidence, it is hereby made a charge upon the county, and, upon the presentation of a certificate by the superintendent of said institution, certified to by the secretary of the board of trustees, to the auditor of said county that such indigent person is a regular and proper inmate of such institution, said auditor shall immediately transmit to the superintendent of said institution his warrant as such auditor payable out of the county treasury for said sum of fifty dollars and a county auditor's warrant for a like amount semi-annually thereafter so long as such person remains an inmate of said institution.

§ 3. AMENDMENT.] Section 9 of chapter 108 of session laws of 1903, being section 1168 of the revised codes of 1905, is amended to read as follows:

§ 1168. PAYMENTS, HOW DISBURSED.] The superintendent shall place said sum when paid, to the credit of the inmate for whom it shall have been received, and so much thereof as may be necessary shall be expended in providing suitable clothing for such inmate, and, at the expiration of one year, such superintendent shall place the excess over the actual expense of providing such clothing to the credit of the state for the benefit and use of the maintenance fund of said institution, and such excess shall be covered into the state treasury semi-annually during the months of January and July, and, in case of the death or removal of such person so admitted before the termination of the annual period for which such payment is made, the board of trustees shall reimburse pro rata the persons or counties so paying, respectively.

§ 4. REPEAL.] Chapter 76 of the laws of 1905, being sections 1910, 1911 and 1912 of the revised codes of 1905 be, and the same hereby are, repealed in so far as the same apply to the institution for feeble minded.

Approved March 7, 1907.

## CHAPTER 238.

[S. B. No. 15—Taylor]

### PUBLIC HEALTH LABORATORY CREATED.

AN ACT Providing for the Creating of a Public Health Laboratory, for the Control of Such Laboratory, and Duties of the Director, for the Appointment of a Director of Such Laboratory Who Shall Be Ex-officio State Bacteriologist.

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

§ 1. LABORATORY ESTABLISHED.] There is hereby established a public health laboratory. Such laboratory shall be established at the state university and school of mines. It shall be under the control and regulation of the trustees of the university and the professor of bacteriology and pathology at the state university shall be the director of said laboratory.

§ 2. DIRECTOR MAKES EXAMINATIONS.] It shall be the duty of the director of said laboratory to make bacteriological examinations of bodily secretions and excretions, waters and foods, and make preparations and examinations of pathological tissues submitted by the state superintendent of public health, or by any county [superintendent] of public health, or by any regularly licensed physician of North Dakota. These analyses and preparations shall be made and the results furnished as expeditiously and promptly as the nature of the work and the equipment of the laboratory permits.

§ 3. STATISTICS COLLECTED.] The board of trustees shall cause to be collected and tabulated such sanitary statistics, and shall cause to be ascertained by research work such methods as will lead to the improvement of the sanitation of the various parts of the state.

§ 4. SPECIMENS PRESERVED.] It shall be the duty of the said board to cause proper specimens of bacteriological and pathological material discovered or examined in the work of said laboratory to be skillfully prepared, secured, labeled and preserved for public inspection free of cost in the university of North Dakota in rooms convenient of access and properly furnished and in charge of a proper scientific curator.

§ 5. DIRECTOR ISSUES BULLETINS.] The director of said laboratory shall cause to be issued from time to time, bulletins and reports setting forth the results of the sanitary and pathological work done in such laboratory. The substance of these bulletins and reports, embodying all useful and important information resulting from the work carried on in such laboratory each year, shall

be incorporated in an annual report to the governor, who shall lay the same before the legislative assembly.

§ 6. WHO DIRECTOR.] The professor of bacteriology and pathology in the medical college of the state university shall be the director of the public health laboratory and shall be ex-officio the state bacteriologist.

§ 7. EMERGENCY.] There being now no provision made for such laboratory, an emergency exists, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 7, 1907.

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## CHAPTER 239.

[S. B. No. 224—Leutz]

### INMATES OF REFORM SCHOOL.

AN ACT Providing for the Placing of the Inmates of the Reform School of the State of North Dakota Under the Guardianship and Control of the Board of Trustees of Said Reform School.

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

§ 1. INMATES WARDS OF TRUSTEES.] All inmates of the reform school of the state of North Dakota are hereby declared to be the wards of, and under the guardianship and control of the board of trustees of said school until discharged therefrom as provided by law. In case any person committed to said school by order of court shall escape or be paroled therefrom, the board of trustees of said school shall have all the rights and powers of a parent or guardian to have such person returned to said school, and may recover such person wherever found and return him or her to said school.

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

§ 3. EMERGENCY.] There being no provision of law placing any person committed to the state reform school under the guardianship and control of the board of trustees of said school, therefore an emergency exists and this act shall take effect and be in force upon its passage and approval.

Approved March 19, 1907.

## CHAPTER 240.

[S. B. No. 320—Young]

### NORMAL SCHOOLS.

AN ACT to Amend Sections 1078, 1079, 1084, 1085, 1086, 1087 and 1090 of the Revised Codes of North Dakota of 1905, Relative to the State Normal Schools at Valley City and Mayville.

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

§ 1. AMENDMENT.] Section 1078 of the revised codes of North Dakota of 1905 is hereby amended so to read as follows:

§ 1078. TERMS OF TRUSTEES.] The governor shall by and with the advice and consent of the senate appoint during each biennial session of the legislative assembly, five members of such board of trustees who shall hold their office for four years commencing on the second Tuesday in April following such appointment. The governor shall fill all vacancies therein by appointment for unexpired terms. At the first meeting of the board of management of each normal school the members thereof shall take and subscribe the oath of office required of all civil officers and shall proceed to elect a president of the board who shall reside in the vicinity of such normal school, and the president of the school shall be the secretary of the board, but shall have no vote. In the absence of the secretary the board may select one of its members to act as secretary. The majority of the members of the board of management shall constitute a quorum for the transaction of business.

§ 2. AMENDMENT.] Section 1079 of the revised codes of North Dakota of 1905 is hereby amended so as to read as follows:

§ 1079. COMMISSION. SECRETARY.] The governor shall cause to be issued to each of the members of the board of trustees a commission under the great seal of the state, and such commission shall designate the board of management upon which such members shall serve. A majority of the members of the board of trustees shall constitute a quorum for the transaction of business.

§ 3. AMENDMENT.] Section 1084 of the revised codes of North Dakota of 1905 is hereby amended so as to read as follows:

§ 1084. SALARIES OF EMPLOYES. REPORTS.] The board of management of each normal school shall have the care of the buildings belonging to such school. It shall have the power to fix the salaries of employes, except members of the faculty, and to prescribe their respective duties, and to remove any of such employes at any time. It shall at such times as may be determined upon propose to the board of trustees the names of persons as president of the school, teachers and instructors, with the recommendation that such persons be employed by such board of trustees as the faculty of such school.

It shall on or before the third Monday in November of each year make an annual report to the board of trustees, showing a statement of all expenditures of funds under its direction, the erection and care of buildings, the condition of schools, and containing such recommendations as they may think proper.

§ 4. AMENDMENT.] Section 1085 of the revised codes of North Dakota of 1905 is hereby amended so as to read as follows:

§ 1085. SALARIES OF PRESIDENT AND TEACHERS.] The board of trustees shall fix the salaries of the president of the school, teachers and instructors, and shall employ the persons therefor that have been recommended by the respective boards of management, unless in the opinion of the board of trustees a reasonable ground exists for refusing to employ such persons. The board of trustees shall prescribe the time and length of the various terms of such school.

§ 5. AMENDMENT.] Section 1086 of the revised codes of North Dakota of 1905 is hereby amended so as to read as follows:

§ 1086. THE FACULTY, DUTIES OF.] The faculty shall consist of the president of the school, teachers and instructors employed for each school as herein provided. The faculty shall pass all needful rules and regulations for the government and discipline of the school, regulating the routine of labor and study, and the duty and exercises and such other rules and regulations as are necessary for the preservation of morals, decorum and health. They shall carry out the course of study adopted by the board of trustees and shall arrange for the classification of all pupils in conformity therewith.

§ 6. AMENDMENT.] Section 1087 of the revised codes of North Dakota of 1905 is hereby amended so as to read as follows:

§ 1087. DUTY OF PRESIDENT.] The president of the school shall be the chief executive officer of the school and it shall be his duty to see that all the rules and regulations are executed. The instructors and employes shall be under his direction and supervision. It shall also be the duty of the president of each school to request the secretary of state to furnish to each school ten copies of the revised codes of 1905, and ten copies of the session laws and supreme court reports hereafter published for library and exchange purposes, and thereupon the secretary of state shall furnish the same.

§ 7. AMENDMENT.] Section 1090 of the revised codes of North Dakota of 1905 is hereby amended so as to read as follows:

§ 1090. DIPLOMAS.] The board of trustees and the respective faculties of each school shall have power to issue diplomas to all persons who shall have completed the courses of study prescribed for the normal schools as herein provided, and who shall have passed a satisfactory examination under the direction of the board of trustees, upon the branches contained in such courses and who shall be known to possess a good moral character, which

diplomas shall set forth the above mentioned facts and shall be designated as the state normal school diplomas.

Approved March 19, 1907.

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## CHAPTER 241.

[S. B. No. 158—Sharpe]

### STATE NORMAL AND INDUSTRIAL SCHOOL AT ELLENDALE.

AN ACT to Amend Section 1172 of the Revised Codes of 1905, Relating to the Industrial School and School for Manual Training.

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

§ 1. AMENDMENT.] Section 1172 of the revised codes of 1905, relating to the industrial school and school for manual training, is amended to read as follows:

§ 1172. NAME AND OBJECTS.] That the institution known as the industrial school and school for manual training, located at Ellendale, Dickey county, North Dakota, be henceforth designated the state normal and industrial school, the object of such school being to provide instruction in a comprehensive way in wood and iron work and the various other branches of manual training, cooking, sewing, modeling, art work, and the various other branches of domestic economy as a co-ordinate branch of education, together with mathematics, drawing and the other necessary school studies, and to prepare teachers in the science of education and the art of teaching in the public schools, with special reference to manual training.

Approved March 23, 1907.

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## CHAPTER 242.

[S. B. No. 242—LaMoure]

### TO PAY INTEREST ON BONDS.

AN ACT Making an Appropriation to Pay the Interest Due in the Years 1907 and 1908 upon Certain So-Called Institution Bonds Now Held in the Permanent School Fund of the State.

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

§ 1. APPROPRIATION.] For the purpose of paying the interest due upon certain so-called institution bonds, now held in the permanent school fund of the state of North Dakota, that is to say

fifty thousand dollars of bonds dated July 1, 1901, for the aid of the state university and the school of mines; fifty thousand dollars dated May 11, 1901, for the aid of the agricultural college; fifty thousand dollars dated June 1, 1899, for the aid of the hospital for the insane; twenty thousand dollars dated July 1, 1899, for the aid of the soldiers' home; twenty thousand dollars dated September 1, 1901, for the aid of the state reform school, there is hereby appropriated out of any money in the state treasury the sum of thirteen thousand two hundred dollars, which amount shall be paid by the state treasurer, on warrant of the state auditor, as the various interest payments become due.

§ 2. EMERGENCY.] Whereas, it is necessary that the interest on the above mentioned securities should be paid prior to July 1, 1907, an emergency exists and this act shall be in force and effect from and after its passage and approval.

Approved March 2, 1907.

# STATE LIBRARY COMMISSION

## CHAPTER 243.

[S. B. No. 207—Cashel]

### STATE LIBRARY COMMISSION CREATED.

AN ACT Creating a State Library Commission, Defining Its Duties and Providing an Appropriation for Its Maintenance.

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

§ 1. STATE PUBLIC LIBRARY COMMISSION.] There is hereby created a state public library commission consisting of three members.

§ 2. MEMBERS, HOW CONSTITUTED.] The president of the North Dakota library association and the superintendent of public instruction are hereby constituted ex-officio members of the said state public library commission; and the governor of the state shall appoint as soon as practicable after the passage and approval of this act, one suitable person within the state as a member of the said state public library commission, which appointment shall be confirmed by the senate. The commission shall elect its own officers from among its own members, and shall also have power to select a competent person as librarian, who shall have control and be in charge of the library work of the commission.

§ 3. TERM OF OFFICE.] The member appointed by the governor shall be appointed for a term of two years from April 1, 1907, and until his successor is appointed and qualified. In case of appointment to fill a vacancy caused by resignation, death or removal, the appointment shall be made for the unexpired term of the member whose death, resignation or removal caused the vacancy.

§ 4. COMPENSATION.] No member of said state library commission shall ever receive any salary or per diem or compensation of any kind for services as such commissioner. Members of the state library commission shall be allowed and paid necessary traveling expenses in attending meetings of the commission or in visiting or establishing libraries, and other incidental and necessary expenses connected with the work of the commission.

§ 5. POWERS AND DUTIES OF COMMISSION.] The state library commission, on and after its creation and organization, shall take over and add to the educational reference library and the system of traveling libraries, and shall continue the same, and, as its funds permit, shall increase the number and usefulness of the libraries. Any city, town, village, school district or community within the state of North Dakota may borrow books under the rules and regulations of the state library commission. The commission shall catalogue and otherwise prepare said books for circulation, and shall make rules and regulations according to which the business of the commission shall be done; and also such rules and regulations as shall insure the care, preservation and safe return of all books loaned. The state library commission shall have power and it shall be its duty to establish a legislative reference bureau for the information and assistance of the members of the legislative assembly in the work of legislation. The legislation of other states and information upon legal and economic questions shall be classified and catalogued in such a way as to render the same easy of access to members, thereby enabling them better to prepare for their work. It shall be the duty of the librarian of the state library commission to assist in every way possible the members of the legislative assembly in obtaining information and the preparation of bills.

§ 6. COMMISSION MAY ASSIST FREE PUBLIC LIBRARIES.] The librarian or trustees of any free public library or the trustees of any village, town or community, entitled to borrow books from said traveling libraries, may, without charge, ask and receive advice and instruction from said state library commission upon any matter pertaining to the organization, maintenance or administration of the libraries, and the said commission shall, as far as possible, promote and assist by counsel and encouragement the formation of libraries where none exist, and the commission may also send its members to aid in organizing new libraries or improving those already established.

§ 7. REPORT.] The state library commission shall keep statistics of the free public libraries of North Dakota and a record of the work done and books loaned by said commission, and shall make a full report to each general session of the legislature of all expenditures by the commission, and of such statistics and records as shall show the work done by the commission, the use made of the traveling libraries, and all other matters which they deem expedient for the information of the legislature, and the printing of which, and all other printing coming within the purview of the library commission, shall be paid for by the state.

§ 8. PLACE OF MEETING OF COMMISSION. OFFICE ROOM OF LIBRARIAN, WHERE.] There shall be provided in the office of the superintendent of public instruction a place of meeting and also office room for the librarian of the state library commission.

§ 9. FUNDS.] There is hereby appropriated for the use and purposes of the state library commission any unexpended balances in the funds appropriated for the educational reference library and traveling libraries, and also an annual appropriation of fifteen hundred dollars out of any moneys in the state treasury not otherwise appropriated.

§ 10. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed, especially any acts or parts of acts carrying any appropriation for the so-called educational reference library and traveling libraries.

§ 11. EMERGENCY.] Whereas, an emergency exists in that there is now no provision for a state library commission, this act shall take effect and be in force on and after its passage and approval.

Approved March 2, 1907.

# SUPREME COURT REPORTS

## CHAPTER 244.

[H. B. No. 182—O. P. N. Anderson]

### SUPREME COURT REPORTS.

AN ACT to Amend Sections 466 and 467 of Chapter 7 of the Political Code of the State of North Dakota, Providing for the Distribution of Supreme Court Reports.

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

§ 466. SECRETARY OF STATE TO SUPPLY AUDITORS.] It is the duty of the secretary of state to furnish to each county auditor

in this state four copies of each volume of such reports, and it is the duty of such auditor upon receipt of the volumes above specified to mark conspicuously upon the outside of the cover thereof with red ink or to brand thereon the words, "Property of the County of ....." (inserting the name of the county of which he is an officer).

§ 467. COUNTY OFFICERS SUPPLIED.] The county auditor must deliver one copy of each volume so marked or branded into the custody of the clerk of the district court, county judge and state's attorney of his county, and retain one copy to be filed in his office, and each of such officers shall at the expiration of his term of office deliver such volume to his successor in office.

Approved March 13, 1907.

# SURVEYS

## CHAPTER 245.

[H. B. No. 338—Johnson]

### UNITED STATES LAND SURVEY RECORDS.

AN ACT Authorizing the Secretary of State on the Approval of the Governor to Receive and Receipt to the United States Surveyor General of the District of North Dakota for All Field Notes, Maps, Records and Other Papers Appertaining to Land Titles Within the State of North Dakota, and for Other Property and Records as the Government May Direct to be Turned Over to the State When All the Public Surveys in the State of North Dakota Shall Have Been Completed.

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

§ 1. SECRETARY OF STATE RECEIVES FIELD NOTES.] Whenever all the public surveys within the state of North Dakota shall have been completed, the secretary of state, with the approval of the governor, is hereby authorized to receive and receipt to the United States surveyor general for the district of North Dakota for all the field notes, maps, records and other papers appertaining to land titles within the state of North Dakota, and for such other property and records as the government may direct to be turned over to the state.

§ 2. RECORDS PRESERVED.] It shall be the duty of the secretary of state to provide suitable rooms in the capitol building containing vaults for fireproof protection and the safe keeping of such records, and free access to any such field notes, maps, records and

other papers for the purpose of taking extracts therefrom or making copies thereof without charge of any kind, shall be allowed to all officers or employes of the United States, during office hours.

§ 3. COPIES TO BE FURNISHED.] It shall be the duty of the secretary of state to furnish on application, exemplified copies of all maps, field notes and records upon the payment to him of such fees for the copying and certifying such field notes, maps and records, as may be prescribed by the governor, secretary of state and attorney general. All fees paid to the secretary of state for copies of plats, field notes and records shall be paid into the state treasury and placed to the credit of the general fund of the state.

Approved March 13, 1907.

# TELEGRAPH AND TELEPHONES

## CHAPTER 246.

[H. B. No. 312—Murphy]

### REGULATING TELEGRAPH SERVICE.

AN ACT to Regulate Telegraph Service Within the State.

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

§ 1. MUST MAINTAIN SUFFICIENT EQUIPMENT.] All persons, corporations and companies doing a public telegraph business within the state shall maintain sufficient wires and equipment to give prompt service and dispatch. All messages received in any telegraph office within the state must be delivered promptly if it is within the power of a telegraph company to locate the party to whom the message is addressed.

§ 2. MESSAGES TRANSMITTED PROMPTLY.] All messages left at the office of any telegraph office or the office of any railroad station where public service is maintained, must be transmitted promptly, providing said message is prepaid by the sender. In no case must a message remain at the telegraph office or station unsent more than thirty minutes, except in case of accident to the lines, such as broken wire or during severe storms.

§ 3. BLANKS USED CONFORM TO ACT.] All blanks and forms used for the sending of telegrams within the state must comply with the requirements of this act and it shall be the duty of any companies doing a telegraph business for a compensation within the state to conduct their business and offices in such a manner that this act be not violated.

§ 4. PENALTY.] Any person, company or corporation or any agent of the same who shall violate any of the provisions of this act shall be subject to a fine of not less than one hundred dollars nor more than five hundred dollars, for each offense, and shall also be liable to the sender or receiver of the message on which violation was made, for all damages resulting from such delay and the criminal procedure is hereby made applicable for collecting fines under this act.

Approved March 13, 1907.

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## CHAPTER 247.

[H. B. No. 232—Martin of Morton]

### INJURING ELECTRIC WIRES.

AN ACT to Amend Section 9312 of the Revised Codes of 1905, Making It a Misdemeanor to Injure or Obstruct Electric Wire.

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

§ 1. AMENDMENT.] Section 9312 of the revised codes of 1905 is amended to read as follows:

§ 9312. INJURING ELECTRIC WIRES MISDEMEANOR.] Every person who willfully or maliciously takes down, removes, injures or obstructs any line of telegraph, telephone or electric wires or any part thereof, or appurtenances or apparatus therewith connected, or severs any wire thereof, is guilty of a misdemeanor.

Approved March 12, 1907.

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## CHAPTER 248.

[S. B. No. 225—Leutz]

### ELECTRIC CURRENT.

AN ACT Making It a Misdemeanor to Fraudulently Connect Wires or Instruments with Electric Wires or Altering Meters for the Purpose of Evading Payment for Electric Current.

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

§ 1. ELECTRIC CURRENT, FRAUDULENTLY USING. MISDEMEANOR.] Every person who, with intent to defraud, makes, or causes to be made, any wires or other instruments or contrivances or connection, and connects the same or causes it to be connected, with any wire laid or strung for conducting electric current, so as to

conduct or carry electric current to a point where the same may be consumed without its passing through the meter provided for registering the quantity consumed or in any manner to evade paying therefor, and every person who with like intent injures or alters any electric meter or any electrical appliance, instrument, wire or connection, or obstructs their action, is guilty of a misdemeanor.

Approved March 8, 1907.

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## CHAPTER 249.

[H. B. No. 286—J. A. Sorlie]

### TELEPHONE LINES.

AN ACT to Prohibit the Uttering of Lascivious or Obscene Language over Telephones in this State.

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

§ 1. UNLAWFUL TO USE OBSCENE LANGUAGE. PENALTY.] Any person who shall utter or speak any obscene or lascivious language over any public telephone line in this state shall be deemed guilty of a misdemeanor, and upon conviction thereof before any justice of the peace, or before any county court exercising increased jurisdiction, as provided by the constitution of this state, shall be liable to a fine of not more than one hundred dollars, or imprisonment in the county jail for a period not exceeding thirty days, at the discretion of the court or magistrate before whom a conviction shall be had.

§ 2. EMERGENCY.] Whereas, an emergency exists, in that there is no provision of law forbidding the matters prohibited in this act, this law shall take effect and be in force on and after its passage and approval.

Approved March 13, 1907.

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# TITLES

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## CHAPTER 250.

[S. B. No. 77—Pierce]

### "CONVEYANCE" AND "PURCHASER" DEFINED.

AN ACT to Amend Section 5039 of the Revised Codes of 1905, Relating to Conveyances.

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

§ 1. AMENDMENT.] Section 5039 of the revised codes of 1905, is amended to read as follows:

§ 5039. CONVEYANCES AND PURCHASERS DEFINED.] The term "conveyance," as used in the last section, embraces every instrument in writing by which any estate or interest in real property is created, aliened, mortgaged or incumbered, or by which the title to any real property may be affected, except wills and powers of attorney. The word "purchaser" as used shall embrace every person to whom any estate or interest in real estate is conveyed for a valuable consideration, and also every assignee of a mortgage, lease or other conditional estate.

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

Approved March 8, 1907.

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## CHAPTER 251.

[S. B. No. 67—Pierce.]

### COVENANTS OF WARRANTY.

AN ACT to Amend Section 5404 of the Revised Codes of 1905, Relating to Effect of Highways or Railways or Right-of-Way Therefor, Over or upon Lands Conveyed.

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

§ 1. AMENDMENT.] Section 5404 of the revised codes be, and the same is hereby amended so as to read as follows, to wit:

§ 5404. HIGHWAYS, RAILWAYS, RIGHT-OF-WAYS.] No covenants of warranty shall be considered as broken by the existence of a highway or railway, or a right-of-way for either, upon the land conveyed by any instrument of conveyance, unless otherwise particularly specified in the deed, and whenever in any instrument of conveyance delivered, filed and recorded prior to the first day of January, 1896, the grantor has conveyed real property in this state, but has reserved or sought to reserve a right-of-way over or across the same for the future construction of any railroad or highway without specifically locating or describing therein by metes and bounds such right-of-way, or proposed right-of-way, or by reference to permanent marks or monuments, such reservation shall be void in all things, and such conveyance shall have the same effect as if no such reservation had been made or attempted to have been made therein, unless at the time of the taking effect of this act the grantor or his or its successor in interest shall be in actual possession of, or shall have located and permanently marked said right-of-way, or shall have filed or caused to be filed within one year after the taking effect of this act, in the office of the register of deeds of the county wherein the land is situated, a plat describing

such selection and such right-of-way, properly acknowledged so as to entitle the same to be recorded, and so as to readily distinguish and designate such right-of-way from the entire premises described in the conveyance from which it was attempted to be reserved, or shall have begun within one year after the taking effect of this act, an action in a court of competent jurisdiction for the purpose of definitely determining and locating such right-of-way, and establishing his or its right thereto, and in such case shall have filed and recorded a proper notice of *lis pendens* in the office of the register of deeds of the county in which such land is located.

Approved March 8, 1907.

# TOWNSHIPS

## CHAPTER 252.

[H. B. No. 344—Treat]

### PUBLIC IMPROVEMENTS IN CIVIL TOWNSHIPS.

AN ACT to Provide for Paving, Curbing or Macadamizing the Highways in Civil Townships Adjoining Incorporated Cities of Not Less Than Six Thousand Inhabitants, and for the Construction of Sewers and Water Mains Therein, Connecting With City Sewers and Water Mains or With Their Own Trunk Sewers, and for the Construction of Sidewalks.

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

§ 1. WHAT CIVIL TOWNSHIPS MAY PAVE, GRADE OR MACADAMIZE ITS STREETS.] Any civil township in this state adjoining an incorporated city having by the last census at least six thousand inhabitants and which shall have paved, graded, curbed or macadamized its streets leading to the boundaries of such civil township, or shall have constructed sewers or watermains in such streets, may pave, grade or macadamize the highways of such township connecting with such city streets, or with such highways so paved or highways running along the boundaries of such city, or construct sewers or watermains therein as provided by this act; provided, that such township shall not so improve any portion of such highways not lying within its boundaries.

§ 2. HOW ACCOMPLISHED.] Whenever the owners of real property abutting on such highway, or part thereof, in such civil township, sought to be improved as provided in this act, and representing a majority by feet of the frontage of said property so

abutting, shall desire to improve such street or highway, or part thereof, as herein provided, they shall petition the board of supervisors of such township in writing, setting forth and describing specifically in such petition the kind, character and extent of the improvement desired, specifying the width and material of pavement, if any, and the size and material of any lateral sewers or watermains, the number and location of manholes and catchbasins for such sewers, and the number and location of fire hydrants for such watermains, which petition shall be accompanied by an affidavit of each signer thereof, stating his place of residence and that he is the owner of certain real property abutting on the part of such highway sought to be improved, describing such property, and stating the number of feet frontage thereof abutting on such street, which petition shall be filed in the office of the township clerk. In the case of trunk sewers, the board shall, by majority vote, order and construct the same whenever a majority petition is presented for the construction of lateral sewers that cannot be connected with the city sewers.

§ 3. SYSTEM OF SEWERAGE.] The board of township supervisors shall have power to establish and maintain at any time a general system of sewerage for the township in such manner and under such regulations as the board shall deem expedient, and to alter or change the same from time to time as the board shall deem proper; provided, that no action shall be taken for the establishment of such system of sewerage except upon the affirmative vote of a majority of the members of the board; provided, further, that when such system of sewerage is established all measures necessary for the construction of sewers, as a part of such system, may be taken by a vote of the majority of the board; and provided, further, that such townships may empty or discharge its sewerage into any river.

§ 4. TO CREATE SEWER IMPROVEMENT DISTRICTS.] Any such township shall have power to create sewer districts within the limits of such township which shall be consecutively numbered.

§ 5. SIZE AND FORM OF SEWER DISTRICTS.] Such sewer districts shall be of such size and form as the board, after consulting with their engineer, shall decide most practical for the purpose of the drainage of such portion of such township as may be included in the respective districts as established by the board of township supervisors.

§ 6. PLANS, SPECIFICATIONS AND ESTIMATE.] The board shall deem it necessary when a majority petition, above provided for, shall be filed, to construct or alter any sewer or to open, widen, extend, pave, macadamize or curb any street, alley, avenue, lane, highway or other public grounds within the township limits, or to extend, relay or replace any sewer and watermains. The board shall employ a competent engineer to prepare plans and specifications for such work and make an estimate of its probable cost,

which plans, specifications and estimate shall be the property of the township and be filed in the office of the township clerk, and remain on file in his office subject to the inspection of all persons. The engineer shall retain a copy of such plans, specifications and estimate and file the same in his office for the inspection and information of bidders.

§ 7. RESOLUTION DECLARING WORK NECESSARY.] After the plans, specifications and estimate mentioned in the preceding section shall have been filed in the office of the township clerk, the board shall, by resolution, declare such work or improvement necessary to be done according to such plans and specifications as filed in the office of the township clerk.

§ 8. DUTY OF BOARD.] The board shall then cause proposals for said work to be advertised for in the nearest newspaper twice, once in each week for two successive weeks, which advertisement shall specify the work to be done, according to the plans and specifications therefor on file in the township clerk's office, and shall call for bids therefor upon a basis of cash payment for said work, and state the time within which such bids will be received, and within which such work is to be completed. Bids for such work shall be forwarded to the clerk of such township, securely sealed so as to prevent their being opened without detection, and shall have indorsed upon the outside thereof a statement of what work such proposals are for. Such bids shall be opened by the board at the expiration of the time limited in said advertisement for receiving the same, which shall not be less than fifteen days after the first publication of said advertisement, or at such other time as the board may appoint therefor, and if accompanied by the check and bond hereinafter provided for, shall be considered, and if not accompanied by such check and bond, shall be rejected.

§ 9. BIDS.] Each bid for any work to be done under the provisions of this act shall be accompanied by a certified check, in case of sidewalks for the sum of fifty dollars, and in case of other work for the sum of five hundred dollars, indorsed or payable to the clerk, as a guarantee that the bidder will enter into a contract for the performance of such work in case such contract is awarded to him, and in case any bidder to whom such contract shall be awarded fails or refuses to enter into such contract when requested so to do, such check accompanying his bid shall be retained by the township and be deemed to be liquidated damages for such failure, and shall be delivered to the township treasurer and credited by him to the fund from which the consideration for such work is payable.

§ 10. BOND.] Each bid for any such work shall also be accompanied by a bond running to the township, in case of sidewalks for the sum of five hundred dollars, and in all other cases a sum equal to the amount of such bid, executed by such bidder and a surety company as surety, or by two freeholders of the state,

who shall justify as required in arrest and bail, and the aggregate of such justification shall equal the amount of such bond, and such bond shall be conditioned that in case such bid is accepted and such contract awarded to such bidder, he will well and faithfully perform the work bid for, in accordance with the terms of, and within the time provided for in such contract, and pursuant to the plans and specifications for such work on file in the clerk's office, and pay for all labor and material used in such work, and that in case of default on the part of such bidder to perform such work as provided in his contract, the sum named in said bond shall be taken and held to be fixed and liquidated damages in favor of said township; and that the full amount thereof may be recovered from such bidder and his sureties in an action by the township against them on such bond. Such bond shall be approved by the board and filed in the office of the clerk, and shall thereupon be and remain in full force and effect. Upon the award of the contract the checks of all unsuccessful bidders shall be returned to them, and upon the execution of the contract and filing of such bond the check of the successful bidder shall be returned to him.

§ 11. BOARD MAY REJECT BIDS.] The board of township supervisors shall have the right to reject any and all bids for work to be done under this act, if, in its opinion, the interests of the township will be best subserved by so doing, and readvertise for further bids; but if all such bids are not rejected the contract shall then be awarded to the lowest bidder upon the basis of cash payment therefor, provided such bidder shall have complied with the foregoing requirements and furnished the bond hereinbefore provided for.

§ 12. CONTRACTS.] All contracts entered into for any work provided for in this act, shall be entered into in the name of the civil township and shall be executed on the part of the township by the chairman of the board of supervisors thereof, and countersigned by the township clerk with the corporate seal of the civil township affixed, and when signed by the contractor shall be filed in the office of the township clerk. Such contracts shall require the work to be done thereunder, to be done pursuant to the plans and specifications therefor on file in the office of the township clerk, and subject to the approval of the civil engineer, who shall personally supervise and inspect such work during its progress, and there shall be reserved in each contract the right of the civil township in case of the improper construction of such work to suspend work thereon at any time, and to relet the contract therefor or order a reconstruction of said work on any part thereof improperly done. Each contract so entered into shall state the time on or before which such work must be completed, and must state from what fund the amount to be paid thereon by the civil township is to be paid, and that the consideration of such contract is payable only in warrants drawn on such fund and that such civil

township assumes and incurs no general liability under such contract.

§ 13. CONTRACTOR, HOW PAID.] In case the contractor to whom any such contract shall be let shall properly perform the work therein designated, the board of supervisors may from time to time in its discretion, as the work progresses, pay to such contractor upon an estimate made by the civil engineer of the amount already earned thereunder, eighty-five per cent of the amount shown by such estimate to have been so earned, in warrants drawn on the fund from which the same is to be paid.

§ 14. SPECIAL ASSESSMENT FUNDS. WARRANTS.] All special assessments levied under the provisions of this act shall constitute a fund for the payment of the cost of the improvement for the payment of which they are levied, and shall be diverted to no other purpose, and those for payment of sewer improvements shall be designated respectively "sewer district No..... fund," and such fund shall be numbered according to the number of the sewer district in which it is raised. Those collected for paving improvements shall be designated as "paving fund," and those levied for the payment of watermains shall be known as "watermain fund," and in anticipation of the levy and collection of such special assessments the township may, at any time after the making of a contract for any such improvements, issue warrants on such funds, payable at such specified times and in such amounts as in the judgment of the board of supervisors the taxes and assessments will provide for, which warrants shall bear interest at the rate of not to exceed seven per cent per annum, payable annually, and may have coupons attached representing each year's interest. Such warrants shall state upon their face for what purpose they are issued and the fund from which they are payable, and shall be signed by the chairman of the board of supervisors and countersigned by the township clerk under the seal of the civil township, and be in denominations of not more than one thousand dollars each. Such warrants may be used in making payments on contracts for making such improvements or may be sold for cash at not less than the par value thereof, and the proceeds thereof credited to such fund and used for paying for such improvements. It shall be the duty of the treasurer to pay such warrants and interest coupons as they mature and are presented for payment, out of the funds on which they are drawn, and to cancel the same when paid.

§ 15. ERRORS AND MISTAKES.] In case of errors or mistakes in making an assessment, in respect to the total cost of such improvements or otherwise, occur, or in case of any deficiency in any assessment or otherwise, the board of supervisors shall have power, and it shall be their duty from time to time, to cause additional assessments to be made in the manner hereinafter provided, to supply such deficiencies or correct such errors or mistakes, the total of such assessments not to exceed the benefit to such property

and any such assessment shall be a lien upon the lots and lands on which it is levied as herein provided for the original assessments, and shall be payable in the same manner, and in the same installments, and shall draw interest at the same rate, and shall be enforced in the same manner as herein provided with respect to the original assessment.

§ 16. REASSESSMENT.] In all cases where any assessment, or any part thereof, as to any lot, lots or parcels of land assessed under any of the provisions of this act, for any cause whatever whether jurisdictional or otherwise, shall be set aside or declared void by any court, the board of supervisors shall, without unnecessary delay, cause a reassessment or new assessment to defray the expenses of such improvement to be made, and such reassessment or new assessment shall be made as nearly as may be as herein provided for making the assessment therefor in the first instance and may bear interest from the date of the approval of such assessment so set aside and when the same shall have been made and confirmed by the board of supervisors, it shall be enforced and collected in the same manner that other assessments are enforced and collected under this act, and in all cases where judgment shall hereafter be refused or denied by any court for the collection or enforcement of any special assessment, or where any court shall hereafter set aside or declare void any assessment upon any lot or parcel of land for any cause, the said lot or parcel of land may be reassessed or newly assessed from time to time, until each separate lot, piece or parcel of land has paid its proportionate part of the costs and expenses of such improvement as near as may be; provided, that when any special assessment shall be declared void or set aside by judgment of the supreme court, for a cause affecting other like assessments, all assessments so affected may be vacated by resolution of the board of supervisors and thereupon a reassessment of the property affected thereby shall be made as herein provided and may bear interest as hereinbefore provided.

§ 17. ERROR OR OMISSION SHALL NOT VITIATE.] No error or omission which may be made in the proceedings of the board of supervisors or of any officer of said civil township in referring, reporting upon, ordering or otherwise acting concerning any local improvement provided for in this act, or in making or certifying any assessment, shall vitiate or in any way affect any such assessment, but if it shall appear that by reason of such error or omission substantial injury has been done to the party or parties claiming to be aggrieved, the court shall alter such assessment as may be just, and the same shall then be enforced.

§ 18. ACTION TO AVOID TAX. JUDGMENT.] Whenever any action or proceeding shall be commenced and maintained before any court to prevent or restrain the collection of any special assessment or part thereof, made or levied by the officers of any civil

township for any purpose authorized by law, and whenever any action or proceeding shall be commenced and maintained as aforesaid to vacate or set aside any sale of real estate for such special assessment, or to cancel any tax certificate or deed given under such sale, and such assessment shall be held to be void by reason of noncompliance with this act, the court shall determine the true and just amount which the property attempted to be so assessed by said special assessment should pay, to make the same uniform with other special assessments for the same purpose, and the amount of such assessments as the same appears on the assessment list thereof, shall be prima facie evidence of such true and just amount, and judgment must be rendered and given therefor against the party liable for such special assessment, without regard to the proceedings had for the levy thereof, and such judgment shall be a lien upon the property upon which a special assessment shall have been levied, of equal force and effect as the lien of special assessments, and the lien of such judgment shall be enforced by the court in such action; provided, that no action for either of said purposes shall be maintained unless it is commenced within six months after such special assessment is approved, and in case of such assessment heretofore approved, within six months after this act takes effect.

§ 19. PAYMENT OF DEFICIENCY.] Whenever special assessments levied for a specific improvement shall have been collected and applied in payment of the warrants issued for such improvement, and a deficiency remains, the board of supervisors shall levy a tax upon all the taxable property in the civil township for the payment of such deficiency, and in case of a balance of such special assessments remaining unexpended, it may be used for repairs of such improvement.

§ 20. SEWER ASSESSMENTS EXTENDED TWENTY YEARS.] The special assessments herein provided for the payment of the cost of constructing any sewer shall be payable in equal annual amounts extending over a period not exceeding twenty years, and shall bear interest at a rate not to exceed seven per cent per annum on the total amount of such assessments remaining from time to time unpaid.

§ 21. WATERMAIN ASSESSMENTS EXTENDED TEN YEARS.] The special assessments herein provided for the payment of the cost of any watermains shall be payable in equal annual amounts, extending over a period not exceeding ten years, and shall bear interest at a rate not to exceed seven per cent per annum on the total amount of such assessments remaining from time to time unpaid.

§ 22. PAVING ASSESSMENTS EXTENDED TEN TO TWENTY YEARS.] The special assessments hereinbefore provided for the payment of the cost of paying and repaving shall be payable in equal annual amounts, and in case such paving shall be made on a perishable foundation of wood, such amounts shall be extended over a period

not to exceed ten years, and in case such pavement shall be constructed with a concrete or other permanent foundation, such amount shall be extended over a period not exceeding twenty years, and the said assessment shall bear interest at not to exceed the rate of seven per cent per annum on the total amount thereof remaining from time to time unpaid.

§ 23. SIDEWALK ASSESSMENTS.] All special assessments for sidewalks and for the expense of opening, widening or extending streets shall be payable in a single amount.

§ 24. CERTAIN ASSESSMENTS COLLECTED BY SUIT.] Whenever by reason of the exemption of any real property from special assessments, or when any real property cannot be specially assessed as herein provided, in any improvement district, by reason of the title thereof being in the United States, or from other cause, and such real property would otherwise be assessable for any improvements provided for herein, an assessment may be levied against such property and collected from the owner, or person enjoying the beneficial use of such property by suit in any court in this state

§ 25. SPECIAL ASSESSMENTS DUE. INTEREST.] All special assessments levied under the provisions of this act shall become due and payable ten days after the same shall have been approved by the "special assessment commission" and shall thereafter bear interest at the rate of seven per cent per annum.

§ 26. SPECIAL ASSESSMENT COMMISSION.] The board of township supervisors shall constitute a commission to be known as the "special assessment commission." Each member of such commission shall receive as compensation for his services while actually engaged in the duties of such commission the sum of five dollars per day.

§ 27. NOTICE TO COMMISSION.] Whenever the work for which a special assessment shall be required to be made by such commission shall have been completed and approved by the civil engineer, and the total cost of such work shall have been ascertained as near as practicable, the clerk shall notify the chairman of such commission of the completion of such work, and shall certify to him the items of the total cost thereof, to be paid by special assessments, so far as the same have been ascertained, and the chairman of such commission shall thereupon immediately call a meeting of such commission, and such commission shall thereupon as expeditiously as possible proceed to make and return such special assessment as hereinafter provided.

§ 28. SPECIAL ASSESSMENT, HOW MADE. REVIEW.] It shall be the duty of such commission, whenever required under the provisions of this act to make any special assessment, to personally inspect any and all lots and parcels of land which may be subject to such special assessment and determine from such inspection the particular lots and parcels of land which will, in the opinion of such commission, be especially benefited by the construction of

the work for which such assessment is to be made, and thereupon determine the amount in which each of said lots and parcels of land will be especially benefited by the construction of the work for which such special assessment is to be made and thereupon assess against each of such lots and parcels of land, such sum not exceeding such benefits as shall be necessary to pay its just proportion of the total cost of such work, or such part thereof as is to be paid by special assessments, including all expenses incurred in making such assessment, and publishing necessary notices with reference thereto, including the per diem of such commission; and such commission shall thereupon make or cause to be made a complete list of such benefits and assessment setting forth each lot or tract of land assessed, and the amount such lot is benefited by the improvement, and the amount assessed against each, and shall attach to said list a certificate signed by a majority of the members of such commission, certifying that the same is a true and correct assessment of the property therein described to the best of their judgment, and stating the several items of expense included in such assessment, and shall thereupon cause the same to be published twice, once in each week for two consecutive weeks, in the nearest city newspaper, together with a notice of the time and place when and where such commission will meet to hear objections which may be made to any such assessment, by any person interested therein, or his agent or attorney, which time shall not be less than fifteen days after the first publication of such notice; and such commission may thereupon alter the same as may in their opinion be just or as may be necessary to correct any errors therein, and they may increase or diminish any such assessment as may be just and as is necessary to make the aggregate of all such assessments equal to the total special assessment to be made for the cost of the work for which they are made; provided that no assessment shall exceed the benefits to the parcel of land assessed, as determined by the commission. Such commission shall thereupon confirm and approve such list and attach thereto their further certificates certifying that the same is correct as confirmed by them. Such commission shall thereupon file such assessment list in the clerk's office, and such assessment with interest and penalties accruing thereon shall be and remain a paramount lien upon the property upon which such assessment is levied from the time such assessment list is approved by the special assessment commission, and shall remain a lien thereon until fully paid and shall have precedence over all other liens except ordinary taxes to which it shall be subject, and such lien shall not be divested by any judicial sale, and no mistake in the description of the property or in the name of the owner shall obviate such lien, provided the property assessed can be identified by the description in such assessment list.

§ 29. CLERK SHALL CERTIFY ASSESSMENTS.] The clerk shall annually, at the time he certifies to the county auditor the amount

of township taxes to be levied for the current year, also certify to such auditor all sidewalk, and all sidewalk repair assessments, and all assessments for opening or widening the streets, remaining in his office uncertified, and shall also certify to such county auditor a list of the lots and tracts of land specially assessed for any other purpose as hereinbefore provided, designating the purpose of such assessment and the fund to which it belongs, with the proportion of such assessment for such year against each lot, and shall add thereto one per cent of all such assessments so certified, and the county auditor shall thereupon extend the same upon the tax list for the current year, and the amount, with all interest and penalties, shall be collected and paid over to the township treasurer in the same manner as other taxes, and when so paid over shall be credited by the township treasurer and clerk to the fund for which it was collected.

§ 30. WARRANTS MAY BE USED TO PAY ASSESSMENTS.] Any matured special assessment warrants or interest coupons may be used in the payment of special assessments levied for the payment of the improvement for which such warrants or interest coupons were issued, and such warrants or coupons so used shall be cancelled and retired by the township treasurer.

§ 31. RIGHT OF PROPERTY OWNERS TO PAY ASSESSMENTS.] The owner of any property against which an assessment shall have been made for the cost of any improvement under this act shall have the right to pay the same, or any part thereof remaining unpaid, in full, with the unpaid interest thereon, and such payment in full shall constitute a discharge of the lien of such assessment upon his property. Such payment may be made to the county treasurer upon all installments of such assessments which have been certified to the county auditor, and may be made to the township treasurer upon all portions of such assessments which have not been so certified. The person desiring to pay any portion of such assessment to the township treasurer shall obtain from the clerk a certificate of the amount due upon such assessment which has not been certified to the county auditor, and shall thereupon present such certificate to the township treasurer, and the township treasurer shall thereupon receive and collect such amount and issue duplicate receipts therefor, one of which he shall deliver to the party paying such assessment, and thereupon deposit the other in the office of the clerk, and the clerk shall thereupon note upon his records the payment of such assessment.

§ 32. PENALTIES TO BE ADDED.] The county treasurer shall add to all such special assessments the same interest and penalties that are provided to be added in the case of general taxes, and at the same time, and shall collect such interest and penalties with such special assessments and shall pay over to the township treasurer all such interest and penalties.

§ 33. DELINQUENT SPECIAL ASSESSMENT SALES.] If the real property against which any assessment is levied is sold to enforce

the collection of a special assessment which has become delinquent, the sale shall be made by the same officer, and upon like notice and subject to the same provisions in relation to redemption, and the same record thereof shall be kept by the officer making the sale, as in cases of real property for delinquent taxes; but if any real property is subject to sale at the same time for delinquent taxes, and also for delinquent special assessments it shall be sold separately for each, and a separate certificate of sale shall be issued upon each of said sales, although both sales are made to the same person, and the certificates issued upon the sale for special assessments shall so state; and if no redemption is made from such sale, a deed shall be issued to the purchaser or his assigns, which shall be, as nearly as practicable, in the same form as deeds issued upon sales for general taxes, except that it shall state that such sale was made for special assessments; and in case the sale for special assessments is made to a different purchaser from the sale for general taxes, such purchaser may redeem said premises from the purchaser of the same for delinquent general taxes, and upon such redemption shall be subrogated to all the rights of such purchaser from whom such redemption is made. Such redemption shall be made at the office of the county auditor, and the auditor shall issue to the redemptioner a certificate of such redemption, which shall state that such redemption is made by the holder of a certificate of sale of the premises for delinquent special assessments, and that the person to whom such certificate is issued or his assigns is subrogated to all the rights of the original purchaser, and such certificate shall entitle the holder of a tax deed of said premises under such sale for delinquent general taxes, subject to the same conditions, and at the same time as the original certificate of such sale.

§ 34. WHEN NO BIDDERS. TAX DEED.] Whenever any parcel of land shall be offered for sale for a special assessment as provided in section 2808, and there shall be no bidder therefor, the county auditor shall strike off such parcel of land to the civil township making such assessment, and issue a certificate of sale therefor to such civil township, which certificate shall be assignable as hereinafter provided, and if no redemption be made from such sale, or such certificate be not assigned within three years from the date of such certificate of sale, the piece or parcel of land so bid off shall become the absolute property of the civil township, at the expiration of said three years, without any further act upon its part, and may be disposed of by the civil township at public or private sale, as may be provided by the board of supervisors, and the civil township may redeem any parcel of land from a purchaser thereof under a sale for general taxes as is hereinbefore provided for such redemption in other cases, and any assignee of the civil township's certificate of sale may likewise, and in like manner redeem any such parcel of land from any such sale

for delinquent taxes and such redemption shall have the same force and effect as provided in the preceding section. The civil township may at any time before its title to said land becomes absolute, by resolution of the board of supervisors, assign said certificate of sale to any person except the township clerk and township treasurer, who shall pay the amount for which the same shall have been bid in, and any amount paid by the civil township for the redemption of such premises from sale for general delinquent taxes with interest thereon from the sale of such assessment, and the amount of all subsequent special assessments thereon then due, and all penalties, interest and costs upon the same, and the township clerk shall thereupon execute to the purchaser of such certificate of sale an assignment thereof, substantially as provided in section 1588 of the revised codes. In case such lands are not redeemed from such sale, the county auditor shall at the expiration of the period of redemption issue a deed thereof to such civil township if such certificate has not been assigned by it, and if so assigned, then to the holder of such certificate; provided, that no deed shall be issued on any such certificate except to the township, until notice of expiration of the period of redemption has been given as provided for sales for general taxes.

§ 35. RECORDS. DUTY OF CLERK.] It shall be the duty of the clerk to keep in his office a complete record of all proceedings taken in the matter of making any improvements under this act, including all reports and the confirmation and approval of special assessment thereof, and all petitions, orders, notices and proofs of publication and orders and resolutions of the board of supervisors. Such record or a certified transcript thereof or the original paper, proofs of publication, orders or resolutions on file in his office shall be admitted in evidence without further proof as evidence of the facts therein contained in any court or place in this state.

§ 36. ABBREVIATIONS.] In all proceedings taken for the levy and collection of any special assessments, abbreviations, letters and figures may be used to denote lots, lands and blocks, sections, townships, ranges and parts thereof, years, days of the month, and amounts of money.

§ 37. SPECIAL ASSESSMENTS: LIEN BETWEEN VENDOR AND VENDEE.] As between vendor and vendee all special assessments upon real property for local improvements shall become and be a lien upon the real property upon which the same are assessed from and after the first day of December next after such assessment shall have been certified and returned to the county auditor, to the amount so certified and returned, and no more.

§ 38. SPECIFICATIONS FOR SIDEWALKS.] The board of township supervisors shall by resolution prescribe the width of sidewalks and may establish different widths in different locations, and shall determine and prescribe the kind and quality of material

of which, and the manner in which they shall be constructed, having regard to the business and amount of travel in the vicinity of each; and such resolution shall be specific, and all contracts for the construction of sidewalks shall be let with reference to the same.

§ 39. NOTICE TO BUILD OR REPAIR.] Whenever the board of township supervisors shall deem it necessary to construct, rebuild or repair, except as hereinafter provided, any sidewalk in the township, it shall notify each owner and occupant of any lot or parcel of land adjoining such sidewalk, to construct, rebuild or repair the same at his own expense, and subject to the approval of the board of township supervisors, within the time designated in such notice, by the publication in the nearest newspaper twice, once in each week for two successive weeks, of a notice to said owner or occupant setting forth what work is to be done, and the character of the same as specified in the resolution provided for in the preceding section, and the time within which he is required to do the same. Such notice may be general as to the owner, but must be specific as to the description of the lot or parcel of ground in front of which such sidewalk is to be built, and a copy thereof shall also be served in the manner provided in section 42 of this act.

§ 40. BUILDING BY THE TOWNSHIP.] If such work is not done and the sidewalk is not built, repaired or rebuilt, in the manner and within the time prescribed in said notice, the board of township supervisors shall order the same to be done by such person as they may have contracted with therefor under the direction of the said board of township supervisors, at the expense of the lot or parcel of land adjoining such sidewalk, and such expense, including the expense of all notices in connection with such work and the assessment therefor, and any other expense incurred for such work, shall be assessed upon the lot or parcel of land properly chargeable therewith by the township clerk, and he shall cause to be published the said assessment together with a notice of the time and place when and where the board of township supervisors will meet to approve the same, and said notice shall be published once in the nearest newspaper at least ten days prior to the meeting of the board to approve such assessment.

§ 41. LETTING CONTRACTS FOR SIDEWALKS.] The township clerk shall advertise in the nearest newspaper twice, once in each week for two consecutive weeks, for bids for the construction of the various kinds of sidewalks in accordance with the specifications of the resolution provided for in section 38 of this act, and such bid shall be received and opened and if accompanied by a check and bond as hereinbefore provided, such contract shall be awarded to the lowest bidder and contracts may be awarded to different bidders for the different kinds of sidewalks required.

§ 42. REPAIRS.] Whenever the necessary repair of sidewalks will not in the judgment of the board of township supervisors

exceed in cost the sum of five dollars for each twenty-five feet in front of land belonging to the same owner, they shall notify the township clerk thereof, and the township clerk shall forthwith prepare a notice in writing, which may be general as to the owner of the lot or parcel of land, but describing it specifically, requiring him to repair such sidewalk within a time to be fixed in such notice, not exceeding three days. The township clerk shall forthwith serve it by delivering a copy thereof to the occupant or owner of the parcel of land, if the same is occupied, or by leaving such notice at the dwelling house upon such lot or parcel of land with some person over the age of fourteen years residing therein, or if such lot or parcel of land is not occupied, by posting a copy of such notice in a conspicuous place thereon or immediately in front thereof, and if such sidewalk is not repaired within the time fixed in such notice the board shall, as soon as practicable, repair the same and certify the cost thereof to the township clerk, and the cost of such repairs shall be paid out of the "sidewalk special assessment fund."

§ 43. DUTY OF TOWNSHIP CLERK.] The township clerk shall keep in his office a book called "sidewalk repair special assessment book," and shall enter such cost so certified by the board therein, as a special assessment against the lot or parcel of land adjoining such sidewalk, with the name of the owner, if known to him, and at a meeting in August of each year the township supervisors shall review all such assessments and hear all complaints against the same, and approve the same as finally adjusted.

§ 44. SIDEWALK SPECIAL ASSESSMENT FUND.] All money collected from special assessments for building or repairing sidewalks shall be kept in a fund to be called "sidewalk special assessment fund," and warrants shall be drawn on such fund for the payment of the cost of building and repairing all sidewalks, and the township shall in no case be liable on any contract for the building or repairing of sidewalks for any sum whatever to be paid by money raised by general taxation.

§ 45. PAYMENT OF ONE-FIFTH BY GENERAL TAXATION.] Any township which shall have power under the debt limit provisions of the constitution to create valid obligations to that extent, may, at the option of the board, provide for the payment of not exceeding one-fifth of the cost of any work hereinbefore provided for other than sidewalks, opening and widening streets and sewer and water connections from main to curb line by general taxation of all taxable property in such township, and may contract with reference thereto, and make appropriations and levy taxes therefor in installments annually and extending over the same period as provided for the special assessments for such improvement. Such appropriation and tax levy, if not heretofore included in the annual appropriation, may be made at any time as the occasion may require and be included in the next annual appro-

priation and tax levy. Such appropriation and levy, whether made as a part of the regular annual appropriation and tax levy, or made thereafter, shall state the specific improvement for which such tax is levied and the district in which such improvement is made and the amount thereof shall be credited to and the taxes collected thereunder be turned into and be deemed a part of the fund upon which the warrants issued in payment of the improvement are to be drawn.

§ 46. CONNECTIONS WITH SEWER AND OTHER MAINS.] Whenever the board of supervisors shall determine to pave or repave any street, avenue or alley in which watermains, gas mains, sewers, steam pipes or other pipes, or either of them shall have been previously laid and constructed, they shall, by resolution, require the owners of all property abutting on the said street to cause sewer, water, gas, steam and other service pipes to be first constructed and laid in such street, avenue or alley at the cost of the property fronting thereon, from the sewer, water, gas, steam or other mains in said street, avenue or alley, to a point two feet inside of the curb line on either side of such street, avenue or alley at such intervals along the whole length of such street, avenue or alley as shall be necessary to supply and serve each lot, part of lot or parcel of land. Upon the adoption of such resolution the clerk shall publish in the nearest newspaper twice, once in each week for two successive weeks, a notice to said owner or occupant, setting forth what work is to be done and the time within which he is required to do the same. Such notice may be general as to the owner, but must be specific as to the description of the lot or parcel of land in front of which the improvement is to be made. If such work is not done in the manner and within the time prescribed in said notice, the board shall order the same to be done by such person as they may have contracted with therefor, under the direction of the civil engineer, at the expense of the lot or parcel of land adjoining such improvement, and such expense, including the expenses of all notices in connection with such work and the assessment therefor, and any other expenses incurred for such work, shall be assessed upon the lot or parcel of land properly chargeable therewith by the clerk, and such assessment shall be filed by him in the office of the clerk and the clerk shall cause to be published the said assessment together with a notice of the time and place when and where the board of supervisors will meet to approve the same, and said notice shall be published once in the nearest newspaper at least ten days prior to the meeting of the board of supervisors to approve such assessment. The board, after the adoption of such resolution, declaring the necessity of making the service connections above referred to, shall, by resolution, employ a civil engineer to prepare plans and specifications for same and file with the clerk and shall direct the clerk to advertise for bids for the construction of such connections in accordance with

the plans and specifications for the construction of the same, which plans and specifications shall be filed with the clerk by the civil engineer. Such bids shall be accompanied by a certified check in the sum of five hundred dollars to guarantee the entering into the contract should same be awarded to him. Bids shall be received by the board and the contract awarded to the lowest responsible bidder. The successful bidder shall give a surety bond in the sum of one thousand dollars, executed by such bidder and a surety company as surety, or by two freeholders of the state who shall justify as required in arrest and bail, and the aggregate of such justification shall equal the amount of such bond and such bond shall be conditioned that in case such bid is accepted and such contract awarded to such bidder he will well and faithfully perform the work bid for in accordance with the terms of and within the time provided for in such contract, and pursuant to the plans and specifications for such work on file in the clerk's office, and pay for all labor and material used in such work, and that in case of default on the part of such bidder to perform such work as provided in his contract the sum named in said bond shall be taken and held to be fixed and liquidated damages in favor of said township and that the full amount thereof may be recovered from such bidder and his sureties in an action by the township against them on such bond. Such bond shall be approved by the board and filed in the office of the clerk and shall thereupon be and remain in full force and effect. Upon the award of the contract the checks of all unsuccessful bidders shall be returned to them, and upon the filing of such bond the check of the unsuccessful bidder shall be returned to him. The board shall have the right to reject any and all bids for work to be done under this section if, in its opinon, the interests of the township will be best subserved by so doing, and readvertise for further bids, but if all such bids are not rejected the contract shall then be awarded to the responsible bidder whose bid is the lowest upon the basis of cash payment therefor, provided such bidder shall have complied with the foregoing requirements and furnished the bond hereinbefore provided for. All contracts entered into for any work provided for in this section shall be entered in the name of the township and shall be executed on the part of the township by the chairman of the board of supervisors and countersigned by the clerk with the corporate seal affixed, and when signed by the contractor shall be filed in the office of the township clerk. Such contract shall require the work to be done thereunder to be done pursuant to the plans and specifications therefor on file in the office of the clerk and subject to the approval of the civil engineer, who shall supervise and inspect such work during its progress and there shall be reserved in each contract the right of the board of supervisors in case of improper construction of such work, to suspend work thereon at any time and to relet the contract therefor, or order a reconstruction of said work

or any part thereof improperly done. Each contract so entered into shall state the time on or before which such work must be completed, and must state from what fund the amount to be paid thereon by the township is to be paid, and that the consideration of such contract is payable only in warrants drawn on such fund, and that such township assumes and incurs no general liability under such contract.

§ 47. CITIES AND TOWNSHIPS TO PAY FOR IMPROVEMENTS ON STREETS AND HIGHWAYS.] The expense of improving streets and highways lying on the boundary line between any such city and township, under this act, may be done and paid for by such city and by such township in such proportion as may be mutually agreed on between them, and any such incorporated city may permit such township to connect with its sewer system and watermains, on such terms as shall be just and fully compensate said city therefor and for all water furnished to said township mains.

§ 48. PROVISIONS THIS ACT CONTINUATION EXISTING STATUTES.] The provisions of this act, so far as they are the same as existing statutes, must be construed as continuations thereof and not as new enactments.

§ 49. REPEAL.] Article 5 of chapter 33 of the revised codes of 1905 is hereby repealed.

§ 50. EMERGENCY.] Whereas, an emergency exists in that the present law in force relative to paving and other public improvements in certain civil townships in its provisions are difficult of construction, therefore this act shall take effect from and after its passage and approval.

Approved March 14, 1907.

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## CHAPTER 253.

[H. B. No. 46—Piper]

### DUTIES OF ROAD OVERSEER.

AN ACT Amending Section 1116 of the Revised Codes of 1895, Being Section 1410 of the Revised Codes of 1905, Relating to the Duties of Road Overseers.

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

§ 1. AMENDMENT.] Section 1410 of the revised codes of 1905 of North Dakota is hereby amended to read as follows:

§ 1410. DUTIES OF OVERSEERS OF HIGHWAYS.] The overseers of highways in each township shall repair and keep in order the roads within their respective districts, warn all persons from whom labor is due to work on highways at such times and places within

their several districts as they may deem proper, collect all fines and commutation money, execute all lawful orders of the supervisors, and deliver to the township clerk within sixteen days after his election or appointment, a list subscribed by such overseer, of the names of all inhabitants of his road district who are liable to work on the highways; provided, it shall be unlawful for any road overseer to perform any road work by contract for any person, corporation or company, during his incumbency in the office. Any road overseer who violates any of the provisions of this act, shall be subject on conviction to a fine not exceeding $100, or imprisonment in the county jail for a period not exceeding ten days.

§ 2. EMERGENCY.] Whereas, an emergency exists inasmuch as there is no law in force prohibiting road overseers from taking contract work, therefore, this act shall take effect on and after its passage and approval.

Approved February 16, 1907.

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## CHAPTER 254.

[H. B. No. 189—Johnson of Sargent]

### HIGHWAYS ON COUNTY AND TOWNSHIP LINES.

AN ACT to Amend Section 1367 of the Revised Codes of 1905 of North Dakota, Relating to Highways on County and Township Lines.

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

§ 1. AMENDMENT.] Section 1367 of the revised codes of North Dakota of 1905 is amended to read as follows:

§ 1367. HIGHWAYS ON COUNTY AND TOWNSHIP LINES.] Public highways established on county or township lines, or public highways to be laid out parallel and adjacent to county or township lines, where such lines are occupied by a railroad or other obstructions shall be opened, established, and repaired by the supervisors of the proper road districts on each side thereof, and by the joint labor of the persons in each of such districts in each county or township.

§ 2. EMERGENCY.] An emergency exists inasmuch as there is no law providing for procedure where county and township lines are so occupied, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 12, 1907.

## CHAPTER 255.

[H. B. No. 92—Hemmingsen]

### POWERS OF ELECTORS AND SUPERVISORS IN ORGANIZED TOWNSHIPS.

AN ACT to Amend Sections 3063 and 3133 of the Revised Codes of the State of North Dakota of 1905, Relating to the Powers of Electors and Supervisors in Organized Townships.

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

§ 1. AMENDMENT.] Section 3063 of the revised codes of 1905 is amended to read as follows:

§ 3063. POWERS OF ELECTORS.] The electors of each township have power at the annual township meeting:

1. To determine the number of pound masters and the location of pounds.

2. To select such township officers as are required to be chosen.

3. To direct the institution or defense of actions in all controversies where such township is interested.

4. To direct such sums to be raised in such township for the prosecuting or defending such actions as they may deem necessary.

5. To make all rules and regulations, for impounding of animals.

6. To impose such penalties on persons offending against any rule or regulation established by the township, as they think proper, not exceeding ten dollars for each offence, except as herein otherwise provided.

7. To apply such penalties, when collected, in such manner as they deem most conducive to the interests of the township.

8. To ratify or reject recommendations offered by the township board of supervisors for the expenditure of funds for the purpose of purchasing building sites and purchase, location, erection or removal of any building or erection for township purposes; provided, that no such recommendation shall be adopted otherwise than by a two-thirds vote of the electors present and voting at any annual township meeting.

§ 2. AMENDMENT.] Section 3133 of the revised codes of 1905 is amended to read as follows:

§ 3133. POWERS OF SUPERVISORS.] The supervisors shall have charge of such affairs of the township as are not by law committed to other township officers, and they shall have power to draw orders on the township treasury for the disbursement of such sums as may be necessary for the purpose of defraying the incidental expenses of the township and for all moneys raised by the township to be disbursed for any other purpose, and when it shall seem ad-

visable by said board of supervisors, they may recommend to the electors of their township the expenditure of a stated amount, for the purpose of purchasing building sites and purchase, erection, location or removal of any building or erection for a town hall, library building or other erection for the use and benefit of said township.

§ 3. EMERGENCY.] Whereas, an emergency exists in that there is no provision of law now providing for the purchase, erection, location, or removal of township buildings this act shall take effect and be in force from and after its passage and approval.

Approved March 14, 1907.

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## CHAPTER 256.

[S. B. No. 71—Stade]

### REPEALING CONFLICTING LAW RELATING TO TOWNSHIP OFFICERS.

AN ACT to Repeal Section 3111 of the Revised Codes of North Dakota, 1905, Relating to the Term of Office of Township Officers.

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

§ 1. REPEAL.] Section 3111 of the revised codes of North Dakota, 1905, is hereby repealed.

§ 2. EMERGENCY.] Whereas, an emergency exists in that said section is in conflict with section 3062, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 19, 1907.

# TRANSIENT MERCHANTS

## CHAPTER 257.

[S. B. No. 262—Spoonheim]

### LICENSING TRANSIENT MERCHANTS.

AN ACT Relating to the Licensing of Transient Merchants and Providing a Penalty for the Violation Thereof.

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

§ 1. TRANSIENT MERCHANT DEFINED. FEE.] A transient merchant within the meaning of this act is defined as one who engages in the vending or sale of merchandise at any place in this state temporarily, and who does not intend to become and does not become a permanent merchant of such place. No person shall engage in or follow the business or occupation of a transient merchant, as hereinbefore defined, at any place in this state, without first obtaining a license authorizing him to do so. Any person desiring a license as a transient merchant shall, before receiving the same, pay into the state treasury the sum of seventy-five dollars, and he shall in addition to such amount, after receiving such license, also pay to the treasurer of any city or village where he may be conducting his business, a sum not to exceed twenty-five dollars per day for each day that he may be engaged in carrying on his business, such amount to be determined by ordinance or resolution of such city or village; provided, further, that if complaint be made to the mayor of any city or president of any village that any person doing business therein is a transient merchant, and such person shall claim to be a permanent merchant, he may be required as a condition of transacting business in any such city or village, without the payment of a license fee to such city or village, to give bond to such city or village to secure the payment of the state and local license, in the event that he fails to become a permanent merchant, under the terms of this act, in a penal sum not to exceed five hundred dollars, to be determined by resolution or ordinance of such city or village, with sureties to be approved by the auditor or clerk of the municipality, and which bond shall be enforced, in case of a breach thereof, by the proper local officers of the city or village and upon its collection the amount of the state license shall be paid to the state treasurer and the remainder shall be paid into the treasury of the city or village and become a part of the license fund. The application for a license

as a transient merchant shall be made in writing to the secretary of state upon the blanks to be furnished by him, and upon the filing of such application with the secretary of state and the presentation to him of a receipt from the state treasurer showing the payment of the license fee hereinbefore provided for, the secretary of state shall issue such applicant a license for the period of one year from the date of its issue, and no longer.

§ 2. FIRE SALE MERCHANTS, LICENSE OF.] Every person, firm or corporation which shall not have become a permanent merchant or dealer in the town, city or village in which any such person, firm or corporation sells or exposes for sale any goods, wares or merchandise and which shall advertise, represent and hold forth that the sale thereof is an insurance, bankrupt, insolvent, assignee, trustee, estate, executor, administrator, receiver, job lot or closing out sale, or a sale of goods, wares or merchandise damaged by smoke, fire, water or otherwise, or that by reason of financial difficulty or other special or peculiar circumstances such goods, wares or merchandise will be disposed of for less than their real value, shall, before commencing or advertising a sale thereof, procure a state and local license in the manner hereinafter provided; provided, that nothing in said sections shall apply to any sale made by virtue of any judgment, order or process of any court, or pursuant to any law of this state or of the United States, or in enforcement of any contract right or lien.

§ 3. APPLICATION, HOW MADE.] The application for a state license under the preceding section shall be made to the secretary of state under oath, shall disclose the name and residence of the applicant, who shall, before making such sale advertising so to do, state in his original or supplementary application the details concerning such sale, including all the facts relating to the insurance, bankruptcy, insolvency or other reasons for making the same, with sufficient fullness as to time, place and persons to permit the verification thereof. Such statement shall be copied on the license issued by said secretary of state, and all applications shall be filed by him and a record of all licenses issued shall be made. All files and records of the secretary of state and of the town, city and village auditors shall be in convenient form and be open for public inspection.

§ 4. FEE. PENALTY.] Upon application in the proper form and the payment of seventy-five dollars as a fee the secretary of state shall issue to the applicant a license authorizing him to advertise and make such sales as are specified in section two of this act for the term of one year from the date of its issue. Every license shall contain a copy of the application therefor. Such license shall not be transferable nor authorize more than one person, firm or corporation to sell or advertise goods, wares or merchandise in the manner specified, either by agent or clerk or in any other way than in the proper person of the licensee, ex-

cept that when the licensee is a firm or corporation the sale may be conducted by the members of the partnership or the officers of the corporation, and any licensee may have the assistance of one or more persons who shall not, however, have authority to act for him in his absence. Any agent or employe who conducts or advertises a sale for his principal shall be liable to the penalty hereinafter prescribed if such principal has failed to comply with any of the provisions of law.

§ 5. LOCAL LICENSE FEE.] Any town board, village board or city council may, by resolution, ordinance or order, require the payment by every person, firm or corporation intending to make such sale a per diem license fee not exceeding twenty-five dollars. Before making or offering to make any such sale under the state license every such person, firm or corporation shall exhibit said license to the auditor or clerk of the town, city or village where it is proposed to make sale, and upon payment to said auditor or clerk of such fee as is required by the local authorities he shall record the state license, indorse upon it the words "local license fees paid," affix his official signature with the date of such indorsement, and issue a license authorizing sales within the limits of his town, city or village. Making sales or offering to do so without such license or indorsement shall subject such person to the same penalty as he would be liable to if no state license had been issued.

§ 6. PENALTY.] Every person violating any of the provisions of this act and upon conviction thereof shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or be imprisoned in the county jail not less than thirty days nor more than sixty days or by both such fine and imprisonment.

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

Approved March 8, 1907.

# TRUSTS

## CHAPTER 258.

[S. B. No. 311—Koffel]

### TRADE DISCRIMINATION AND UNFAIR COMPETITION.

AN ACT to Prohibit Discrimination Between Different Sections, Communities or Localities, Unfair Competition and Providing Penalties for the Violation Thereof.

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

§ 1. UNFAIR COMPETITION. PENALTY.] Any person, firm or corporation, foreign or domestic, doing business in the state of North Dakota and engaged in the production, manufacture or distribution of any commodity in general use, that shall intentionally, for the purpose of destroying or preventing competition, discriminate between different sections, communities or cities of this state by selling any such commodity at a lower rate or price in one section, community or city, or any portion thereof, than is charged for such commodity in any other section, community or city, after equalizing the distance from the point of manufacture, production or distribution and freight rates therefrom, or who shall willfully for the purpose of such discrimination and unfair competition, refuse to sell any commodity in general use, and in the manufacture, production or distribution of which such person, firm or corporation may be engaged, to any other person, firm or corporation which may desire to purchase the same and who shall comply with all reasonable regulations of such person, firm or corporation and who shall tender payment therefor, shall be deemed guilty of a misdemeanor.

§ 2. CORPORATION FORFEITS CHARTER, WHEN.] If any complaint is made to the secretary of state that any corporation chartered in this state, or authorized to do business therein, is or has been guilty of unfair discrimination within the terms of this act, it shall be the duty of such secretary to at once institute an inquiry as to such discrimination, giving the corporation complained of notice of such complaint and an opportunity to be heard, and if in the opinion of such secretary of state, any corporation, foreign or domestic, shall have been guilty of any such unfair discrimination under the terms of this act, the said secretary shall so find, and shall make a record of such finding upon the records in his office, and shall at once forfeit the charter of such

corporation, if it be a domestic corporation, or if it be a foreign corporation he shall immediately revoke and forfeit its permit to do business in this state.

§ 3. ATTORNEY GENERAL BRINGS ACTION, WHEN.] If, after the revocation of such charter in the case of a domestic corporation, or of its permit if it be a foreign corporation, any such corporation shall continue or attempt to do business within this state, it shall be the duty of the attorney general of this state by a proper action commenced in the name of the state, to oust such corporation from any and all business of any kind or character within the state of North Dakota.

§ 4. PENALTY.] Any firm, person or corporation violating any of the provisions of this act, shall upon conviction thereof forfeit to the state of North Dakota a sum not less than two hundred nor more than five hundred dollars for each and every violation of this act, said sum to be recovered by action commenced by the attorney general in the name of the state of North Dakota in any court of competent jurisdiction. All sums so collected shall be credited to the general school fund of this state.

§ 5. CUMULATIVE REMEDIES.] Nothing in this act contained shall in any manner be construed as repealing or in any manner altering any other act or part of act heretofore adopted by the legislature of this state, but the remedies herein provided shall be cumulative to all other remedies now existing.

§ 6. EMERGENCY.] Whereas, an emergency exists for the reason that no adequate remedy exists to prevent or punish unjust and unfair discrimination, this act shall take effect from and after its passage and approval.

Approved March 20, 1907.

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## CHAPTER 259.

[S. B. No. 72—Palmer]

### POOLS AND TRUSTS DEFINED.

AN ACT Defining Pools and Trusts and Providing the Penalties and Remedies Therefor, and to Repeal Chapter 53 of the Penal Code of the Revised Codes of 1905.

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

§ 1. POOLS AND TRUSTS. PENALTY.] Any corporation organized under the laws of this state or any other state or country for transacting or conducting any kind of business in this state, or any partnership, association or individual, creating, entering into or becoming a member of, or a party to any pool, trust, agree-

ment, contract, combination, confederation or individual, to regulate or fix the price of any article of merchandise, commodity or property, or to fix or limit the amount or quantity of any article, property, merchandise or commodity to be manufactured, mined, produced, exchanged or sold in this state, shall be guilty of a misdemeanor.

§ 2. DEFINING POOLS AND TRUSTS.] A pool or a trust is a combination of capital, skill or acts by two or more persons, firms, corporations or associations of persons, or two or more of them for either, any or all of the following purposes:

1. To create or carry out restrictions in trade.

2. To limit or reduce the production, or increase or reduce the price of property, merchandise or commodities.

3. To fix at any standard or figure, whereby its price to the public shall be in any manner controlled or established, upon any property, article or commodity of merchandise, produce or manufacture intended for sale, use or consumption in this state; or to establish any pretended agency whereby the sale of any such property, article or commodity shall be covered up or made to appear to be for the original vendor, for a like purpose or purposes.

4. To make or enter into or carry out any contract, obligation or agreement of any kind or description by which they shall bind or have bound themselves not to sell, dispose of, or transport any property, commodity or article of trade, use, merchandise, commerce or consumption below a common standard figure, or card price list, or by which they shall agree in any manner to keep the price of such article, commodity or transportation at a fixed or graduated figure, or by which they shall in any manner establish or settle the price of any property, article or commodity or transportation between them or themselves and others to preclude a free and unrestricted competition among themselves or others in the sale or transportation of any such article or commodity, or by which they shall agree to pool, combine or unite any interest they may have in connection with the sale or transportation of any article or commodity, or by which they shall agree to pool, combine or unite any interest they may have in conection with the sale or transportation of any article or commodity that its price might in any manner be affected.

§ 3. PUNISHMENT OF CORPORATIONS.] Every corporation, whether organized under the laws of this state or any other state or country, doing business in this state, and every person, partnership or association of individuals so doing business, violating any of the provisions of this chapter, is guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not less than one hundred dollars nor more than five thousand dollars.

§ 4. PUNISHMENT OF CORPORATE OFFICERS.] Every person who as president, manager, director, stockholder, receiver or agent or other employe of any corporation, on behalf of such corporation

mentioned in the last section, or as a member of any partnership or association of individuals, violates any of the provisions of this chapter, upon conviction, shall be fined not to exceed two thousand dollars, or imprisoned in the county jail not to exceed one year, and, in the discretion of the court, a sentence of both fine and imprisonment may be imposed.

§ 5. FOREIGN OR DOMESTIC CORPORATIONS VIOLATING, PROHIBITED FROM DOING BUSINESS IN THE STATE.] Every domestic or foreign corporation authorized to do business in this state, which shall have been found guilty in any court of competent jurisdiction of violating any of the provisions of this chapter, is hereby denied the right of and prohibited from doing business in this state, and the charter, articles of incorporation or authority granted, authorizing such corporation to do business in this state, shall cease and become void, and it shall become the duty of the secretary of state, upon the filing in his office of a certified copy of such judgment, to immediately cancel the authorization or charter of such corporation and give such corporation written notice of such cancellation.

§ 6. WHAT NECESSARY IN INFORMATION.] In any information or indictment for any offense named in this chapter it is sufficient to state the purposes of the trust or combination and that the accused is a member of, acted with or in pursuance to it, without giving its name or description, or how or where it was created.

§ 7. WHAT NECESSARY TO PROVE IN PROSECUTION.] In prosecutions under this chapter it shall be sufficient to prove that a trust or combination exists and that the defendant belonged to it or acted for or in connection with it, without proving all the members belonging to it or proving or producing any articles of agreement or any written instrument on which it may have been based, or that it was evidenced by any written instrument at all, and proof that any person has been acting as agent of any defendant in transacting the business of such defendant in this state, was, while agent of such defendant and in the name, behalf or interest of such defendant, violated any of the provisions of this chapter, shall constitute prima facie proof that the same was the act of such defendant.

§ 8. CONTRACTS IN VIOLATION VOID.] Any contract or agreement in violation of the provisions of this chapter shall be absolutely void and not enforceable either in law or in equity.

§ 9. PURCHASER NOT LIABLE.] No purchaser of any property, article or other commodity from any individual, company, association of individuals or corporation transacting business contrary to any provision of the preceding sections of this chapter, shall be liable for the price or payment of such property, article or commodity, and may plead this chapter as a defense in any suit for such price or payment.

§ 10. TAKING TESTIMONY.] Whenever any proceeding shall have been commenced in any court of competent jurisdiction in this

state by the attorney general against any corporation or corporations, individual or individuals, or association of individuals, copartnership or joint stock company or other association, under any of the provisions of this chapter, and the attorney general desires to take the testimony of any officer, director, agent or employe of any such corporation, individual, copartnership, joint stock company or association proceeded against, or any member or employe thereof in any court in which said action may be pending, or before any person duly authorized by any court to take testimony in any such action and such individual or individuals whose testimony is desired are without the jurisdiction of the courts of this state or reside without the state of North Dakota, or cannot be found within this state, then in such case, the attorney general may file in the court in which said action is pending, in term time or in vacation, or with any judge thereof or with any person duly authorized to take the testimony in such action, an application in writing, stating therein the name or names of the persons or individuals whose testimony he desires to take, and the time when and place where, he desires the said person to appear and testify, and thereupon the court in which said action is pending, or a judge thereof, or the person before whom testimony is being taken, shall immediately issue a notice in writing, directed to the attorney or attorneys of record, if any, in said cause appearing for any such defendant or defendants or to any defendant, agent, officer, or employe of any such defendant or defendants who are parties to said action, notifying said defendant, attorney or attorneys of record for such defendant or other officer, agent or employe of any such party defendant that the testimony of the person or persons named in the application of the attorney general is desired and requiring such persons named to appear at the time and place therein stated then and there to testify in said action, and requiring said defendant, attorney or attorneys of record for any such defendant or such officer, agent or employe of any such defendant to whom said notice is delivered, or upon whom the same is served, to have said officer, agent, employe or representative of such defendant or defendants named in such notice whose evidence it is desired to take, at the place named in said notice and at the time therein fixed, then and there to testify; provided, however, that such notice shall always allow the persons required, to testify such reasonable time for travel to the designated point where such testimony is required to be given as will, in the judgment of the court, be sufficient to permit the person cited to appear, to be present at the time and place designated in such notice; provided, also, that such time shall in no case be less than ten days from the service of said notice. Such notice may be served by any person authorized by law to serve a subpoena.

§ 11. FAILING TO TESTIFY.] Whenever any defendant, attorney or attorneys of record, or any agent, officer or employe

of any such party defendant shall have been notified as provided in the preceding section to require any officer, agent, director or other employe to attend before any court or other person authorized to take the testimony as therein provided, shall fail to appear and testify or fail to produce such books, papers or documents as he or they shall have been ordered to produce by the court or the person authorized to take said evidence, then it shall be the duty of the court before whom said action is pending, upon motion of the attorney general, to strike out the answer, motion, reply, demurrer or other pleading then or thereafter filed in said action or proceeding by any such party defendant whose officer, agent, director or employe has neglected or failed to attend or testify or to produce any such book, papers or documents as he or they shall have been ordered to produce in said action by the court or the person authorized to take such testimony, and said court, upon motion of the attorney general, shall render judgment by default against any such defendant. In case any officer, agent, employe, director or other representative of any such defendant as hereinbefore mentioned, who shall reside in or be found within this state, shall be subpoenaed to appear and testify in any suit or proceeding brought under the provisions of this chapter, or to produce such papers, books and documents as shall have been ordered produced by the court, or other person authorized to take such testimony, then the answer, motion, demurrer or other pleading then or thereafter filed by any such defendant shall, on motion of the attorney general, be stricken out and judgment in said cause rendered as on default.

§ 12. INJUNCTION.] The court in which any action or suit is brought under the provisions of this chapter, shall, upon the relation of the attorney general made either at the time of the beginning of said suit or at any time thereafter during its pendency, issue an injunction enjoining any defendant, agents or other employes of any such defendant from selling or assigning or in any other manner disposing of or secreting any of the property or assets of such defendant then situated in this state during the pendency of such suit and enjoining the removal of any such assets or other property from the jurisdiction of this state or the courts thereof; provided, however, that such injunction shall, on motion of any such defendant, be dissolved upon the filing of a bond in an amount to be approved by the court, conditioned that the defendant shall pay any judgment, fine and costs finally entered against the defendant in the action or proceeding in which such bond is filed.

§ 13. JUDGMENT.] Judgment for fine and costs shall be entered in the same manner as in civil cases, and shall be enforced in like manner.

§ 14. ATTORNEY FEES.] In addition to the penalties and costs provided for in this chapter, the court shall allow in any action

brought under the provisions of this chapter, a reasonable attorney's fee, to be assessed as part of the costs of said action, which attorney's fee, so assessed, shall go to the attorney general or state's attorney who conducted the prosecution, and shall be retained by such attorney general or state's attorney as additional compensation to that otherwise allowed by the laws of this state as such attorney general's or state's attorney's salary.

§ 15. REPEAL.] Chapter 53, penal code of the revised codes of 1905, and all acts or parts of acts inconsistent with the provisions of this chapter, are hereby repealed.

Approved March 8, 1907.

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## CHAPTER 260.

[S. B. No. 151—Talcott]

### COMMERCIAL DISCRIMINATION PROHIBITED.

AN ACT to Prohibit Unfair Commercial Discrimination Between Different Sections, Communities or Localities, or Unfair Competition, and Providing Penalties Therefor.

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

§ 1. DISCRIMINATION PROHIBITED.] Any person, firm, company, association or corporation, foreign or domestic, doing business in the state of North Dakota, and engaged in the production, manufacture or distribution of any commodity in general use, that shall intentionally, for the purpose of destroying the business of a competitor in any locality, discriminate between different sections, communities or cities of this state, by selling such commodity at a lower rate in one section, community or city, than is charged for said commodity by said party in another section, community or city, after making due allowance for the difference, if any, in the grade or quality, and in the actual cost of transportation from the point of production, if a raw product, or from the point of manufacture, if a manufactured product, shall be deemed guilty of unfair discrimination, which is hereby prohibited and declared to be unlawful.

§ 2. PENALTY.] Any person, firm, company, association or corporation violating any of the provisions of the preceding section, and any officer, agent or receiver of any firm, company, association or corporation, or any member of the same or any individual, found guilty of a violation thereof, shall be fined not less than five hundred dollars, nor more than five thousand dollars, or be imprisoned in the county jail not to exceed one year, or suffer both penalties.

§ 3. CONTRACTS VOID.] All contracts or agreements made in violation of any of the provisions of the two preceding sections shall be void.

§ 4. DUTY COUNTY ATTORNEY AND ATTORNEY GENERAL.] It shall be the duty of the county attorneys, in their counties, and the attorney general, to enforce the provisions of the preceding sections of this act by appropriate actions in courts of competent jurisdiction.

§ 5. DUTY SECRETARY OF STATE.] If complaint shall be made to the secretary of state that any corporation authorized to do business in this state is guilty of unfair discrimination within the terms of this act, it shall be the duty of the secretary of state to refer the matter to the attorney general, who may, if the facts justify it in his judgment, institute proceedings in the courts against such corporation.

§ 6. CHARTER AND RIGHTS FORFEITED.] If any corporation, foreign or domestic, authorized to do business in this state, is found guilty of unfair discrimination, such finding shall cause a forfeiture of all the privileges and rights conferred by the laws of this state upon corporations and shall bar its right to do business in this state.

§ 7. DUTY OF ATTORNEY GENERAL.] If any corporation, having been found guilty of a violation of any of the provisions of this act, shall continue or attempt to do business in this state, it shall be the duty of the attorney general by a proper action in the name of the state of North Dakota to enjoin such corporation from transacting all business of every kind and character in said state of North Dakota.

§ 8. REMEDIES CUMULATIVE.] Nothing in this act shall be construed as repealing any other act, or part of act, but the remedies herein provided shall be cumulative to all other remedies provided by law.

§ 9. EMERGENCY.] Whereas, an emergency exists, this act shall take effect and be in force from and after its passage and approval.

Approved March 8, 1907.

# VERIFICATION OF CLAIMS

## CHAPTER 261.

[S. B. No. 293—Kraabel]

### CLAIMS AGAINST STATE.

AN ACT to Amend Section 394 of Chapter 5 of the Political Code of the Revised Codes of 1905 for North Dakota, Relative to Verified Claims Against the State.

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

§ 1. AMENDMENT.] Section 394 of the revised codes of North Dakota for 1905 is hereby amended to read as follows:

§ 394. CLAIMS AGAINST THE STATE VERIFIED, HOW.] No bill, claim, account or demand against the state, 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, and where charges are made for money expended in the performance of official duties, all items of one dollar or more shall be covered by a sub-voucher signed by the party to whom the money was paid. The sub-voucher shall show the date, at what place, and for what the money was paid. The sub-vouchers shall be forwarded with the statement and said statement shall be verified by the oath of the party making it, substantially in the following form:

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 no part of such account, claim or demand has been paid; and that the goods therein charged were actually delivered and of the value charged.

(Sign here).....

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

§ 2. EXCEPTION.] This act shall not apply to charges for expenses as a member of any board of trustees or management of any state institution, except as to the form of oath prescribed.

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

§ 4. EMERGENCY.] Whereas, the law now in effect makes it necessary to use two forms of vouchers, which is impractical, therefore this act shall be in force and effect after its passage and approval.

Approved March 19, 1907.

# VILLAGES

## CHAPTER 262.

[H. B. No. 12—Berndt Anderson]

### VILLAGES MAY OPEN STREETS.

AN ACT Providing for the Opening, Grading, Improving and Vacating of Streets, Alleys, etc., in Incorporated Villages.

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

§ 1. SURVEYS.] Whenever the village board of trustees of any incorporated village shall deem it necessary to open, lay out, widen or enlarge any street or alley or public place within the village it shall cause an accurate survey and plat of the same to be made by the county surveyor or other competent civil engineer with an estimate of the probable cost of the improvement, and shall cause the same to be filed in the office of the village clerk and retain a copy in his office.

§ 2. TAKING PRIVATE PROPERTY.] Whenever it shall be necessary to take private property in order to open, lay out, widen or enlarge any street, alley or any public place in any incorporated village, the same shall be done by purchase, or under the provisions of the code of civil procedure providing for the exercise of the right of eminent domain; and whenever any judgment for damages to property so taken for any such improvement shall be entered, the village board of trustees shall cause special assessments to be levied upon the property benefitted thereby to pay such judgment; provided, that not more than one-fourth thereof may be paid by the levy of a general tax upon all taxable property in the village.

§ 3. FIXING GRADES.] The village board of trustees of an incorporated village may by ordinance establish the grade of all streets, alleys and sidewalks in the village as the convenience of the inhabitants may require, and a record of the same shall be kept together with a profile thereof in the office of the village clerk; provided, that after the grade of any street has been established as provided in this section, the village shall if it change the grade, be liable to the abutting property owners for any damages they may sustain by reason of any permanent improvements having been made by them to conform to the grade as first established.

§ 4. VACATION OF STREETS AND ALLEYS. PETITION. APPEAL.] No public grounds, streets or alleys, or parts thereof over or under

or through which shall have been constructed lengthwise sewers or watermains by the village, or watermains, gas, steam or other pipes, or telephone or telegraph lines by the village's grantees of the right-of-way therefor, shall be vacated and no other public grounds, streets or alleys, or parts thereof, within the village shall be vacated or discontinued by the village board of trustees except upon a petition of a majority of the owners of property on the line of such public grounds, streets or alleys resident within the village. Such petition shall set forth the facts and reasons for such vacation accompanied by a plat of such public grounds, streets or alleys proposed to be vacated, and shall be verified by the oath of at least two of the petitioners, and the consent in writing of all the owners of the property adjoining the plat to be so vacated. The village board of trustees shall thereupon, if they deem it expedient that the matter should be proceeded with, order the petition to be filed with the clerk of the village, who shall give notice of publication in a legal newspaper of the village or if no legal newspaper is published in the village, then in any legal newspaper in the county wherein said village is located, for four weeks, at least once each week, to the effect that such petition has been filed as aforesaid, and stating in brief its object and that said petition will be heard and considered by the village board of trustees or a committee thereof on a certain day therein specified, not less than thirty days after the first publication of such notice. The village board of trustees or such committee as may be appointed by it for the purpose, at the time and place appointed, shall investigate and consider the matter, and shall hear the testimony and evidence of persons interested. The village board of trustees, thereupon after hearing the same, or upon the report of such committee favoring the granting of such petition, may by resolution passed by a two-thirds vote of all the members-elect declare such public grounds, streets or alleys, or highways vacated, which resolution, before the same shall go into effect, shall be published as in the case of ordinances and thereupon a transcript of such resolution duly certified by the village clerk shall be filed for record and duly recorded in the office of the register of deeds of the county, and shall have the effect to convey to the abutting property owners all of the right and title of the village to the property so vacated. Any persons aggrieved thereby may within twenty days after publication of such resolution appeal to the district court of the county under the same regulations as in the case of opening streets and alleys, and the judgment of the court therein shall be final. All expenses incurred in vacating any such public grounds, streets or alleys, must be paid by the petitioners, who shall deposit with the village treasurer such sum as may be necessary therefor, before any such expense is incurred, and the amount so to be deposited shall be determined by the village board of trustees, and any part thereof not used for the expenses shall be returned.

§ 5. EMERGENCY.] Whereas, an emergency exists in this, that there is now no method of procedure provided by law for the opening, grading, improving or vacating streets or alleys, etc., in incorporated villages, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 12, 1907.

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## CHAPTER 263.

[S. B. No. 269—Steele]

### EXTENSION OF VILLAGE LIMITS.

AN ACT to Amend and Re-enact Section 2894 of the Revised Codes of North Dakota for 1905, Relating to Extension of Corporate Limits of Villages.

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

§ 1. AMENDMENT.] Section 2894 of the revised codes of North Dakota of 1905, be and the same is hereby amended and re-enacted to read as follows:

§ 2894. ANNEXING ADDITIONAL LOTS.] Whenever there shall be lots laid off and platted, adjoining such village and a record of the same is made in the register of deeds' office of the proper county, or whenever there shall be lots laid off and platted as above adjacent but separated from said village by an unplatted strip of territory lying between the original plat and such additional platted territory, if said unplatted strip does not exceed one-fourth of the present area of such village, the board of trustees may by resolution extend the boundary of such village so as to include such lots or such lots and such strips as the case may be, and the lots, or lots and strip thus annexed shall thereafter form a part of such village and be within the jurisdiction thereof. The trustees shall immediately thereafter file a copy of such resolution, together with a plat and map or survey defining the boundaries of such additionally included territory in the office of the register of deeds of the county.

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

Approved March 19, 1907.

## CHAPTER 264.

[H. B. No. 93—Hemmingsen]

### DIVISION OF VILLAGE AND TOWNSHIP FUNDS.

AN ACT to Provide for the Division of Funds and Property Owned Jointy by a Village and a Township, When They Become Separate and Independent Municipalities, by Said Village Becoming Organized Under Chapter 31, of the Political Code of North Dakota.

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

§ 1. DIVISION OF FUNDS AND PROPERTY.] Whenever any village organized under chapter 31 of the political code of North Dakota, shall have been a part of the township for township purposes, and such village shall have determined, under the provisions of said chapter 31, to become a separate and independent municipality, and such village and township have, prior to such separation, owned property jointly and together, such joint property and any joint funds or debts of said village and township shall be divided between said village and township in proportion to the equalized valuation of the property of said village and township, as fixed and determined by the board of county commissioners of the county in which they are situated, being the last equalization made by said county board previous to such separation, and in making such division, if the property held is real estate situated within either the village or township, then such real estate shall belong to the municipality [in which it is situated, and such municipality] shall pay to the other its proportion of the value thereof and debts; and in case the authorities of such village and township cannot agree upon the value of such real estate, or upon the value of any indivisable property, held jointly, or their just proportion of indebtedness owed, then the authorities of either such village or township may, upon five days' notice of the time and place, apply to the county judge of said county, whose duty it shall be to appoint three arbitrators who shall be freeholders of said county, and not residents or taxpayers of said village or township, who shall be duly sworn to perform the duties of the trust imposed upon them, and such arbitrators shall view the property and appraise and fix the value thereof, for the purpose of such division, and in case of personal property, if no satisfactory arrangement can be otherwise made the same shall be sold at auction to the highest bidder, the village or township having the right to bid at such sale. It is further provided that when any village has already become an independent municipality, under the provisions of said chapter 31, of the political code of North Dakota, and such village, before such separation, owned property or owed debts jointly with the township, and such

property rights have not been adjusted, then the same may be determined and settled in accordance with the provisions of this act.

§ 2. EMERGENCY.] Whereas, an emergency exists in that there is no provision of law for the division of funds and property between villages and townships, this act shall take effect and be in force from and after its passage and approval.

Approved March 14, 1907.

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## CHAPTER 265.

[H. B. No. 243—Adams]

### VILLAGE INDEBTEDNESS.

AN ACT to Amend Section 2869 of the Revised Codes of 1905, Providing for the Contracting of Loans and for the Incurring of Indebtedness by Villages and Providing for the Creation of a Sinking Fund for the Liquidation of Such Loans and Indebtedness.

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

§ 1. AMENDMENT.] Section 2869 of the revised codes of the state of North Dakota, as revised and compiled in 1905, is hereby amended so as to read as follows:

§ 2869. CONTRACTING LOANS.] No village incorporated under [this] chapter shall have power to borrow money or incur any debt, liability or issue bonds to fund any existing indebtedness, unless the citizen-owners of five-eighths of the taxable property of such village, as evidenced by the assessment roll of the preceding year, petition the board of trustees to contract such debt, loan or bonds, and such petition shall have attached thereto an affidavit verifying the genuineness of the signatures to the same; and for any debt created thereby the trustees shall add to the tax duplicate of each year successively a levy sufficient to pay the annual interest on such debt or loan, with an addition of not less than five cents on the hundred dollars to create a sinking fund for the liquidation of the principal thereof.

Approved March 13, 1907.

# CHAPTER 266.

[H. B. No. 274—Giedt]

## ORGANIZATION OF VILLAGES.

AN ACT for the Organization of Villages, Towns or Cities in Territory Embracing More than One County.

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

§ 1. WHEN ORGANIZED.] Whenever any area of contiguous territory in this state, not exceeding four square miles, shall have residing thereon a population of not less than one hundred inhabitants, which shall not already have been included within the corporate limits of any incorporated village, town or city, and which territory to be embraced in the limits of said village, town or city in more than one county, the same may become incorporated as a village, town or city in the manner provided in section 2635 of the revised codes of North Dakota.

§ 2. OTHER PROVISIONS APPLICABLE.] Chapter 30 of the political code of North Dakota is hereby made applicable to the organization, power and duties of such village, town or city and its officers, except as herein otherwise especially provided.

§ 3. ASSESSOR APPOINTED.] There shall be appointed by the trustees or mayor of all villages, towns or cities incorporated under the provisions of this act, an assessor for the territory embraced in each of the counties in which said village, town or city is located, and which said assessor shall have the same power, and perform the same duties as assessors in villages, towns or cities embraced within the limits of a single county, and shall return to the trustees of such village, town or city council the assessment of property embraced within the portion of the city for which they are appointed.

§ 4. PROCEEDINGS OF EQALIZATION BOARD.] The village or town clerk or city auditor, after action by the village, town or city board of equalization, shall return a separate report to each of the county auditors of the counties in which any portion of said village, town or city is located, the equalization of the property contained in such county, and thereafter the board of county commissioners of each of the counties shall perform the same duties as to such assessment, levy and collection of taxes as if the whole village, town or city was embraced within the limits of said county.

§ 5. DUTY OF COUNTY TREASURER.] The county treasurer of each county shall perform the same duties in relation to all property returned as assessed by said village, town or city in the county of which said treasurer is an officer, in the same manner, and to the same extent as is now provided by law for the levy and collection of taxes.

§ 6. EMERGENCY.] Whereas, there is now no law adequate for the organization of villages, towns or cities containing less than five hundred inhabitants, which territory is embraced in more than one county, therefore an emergency is declared to exist and this act shall take effect and be in force from and after its passage and approval.

Approved March 12, 1907.

## CHAPTER 267.

[H. B. No. 165—Garden]

### COLLECTION OF ROAD TAXES IN VILLAGES.

AN ACT Providing for the Levy and Collection of Road Taxes in Incorporated Villages.

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

§ 1. BOARD OF TRUSTEES MAY LEVY ROAD TAXES.] The board of trustees of each incorporated village shall have power to levy and collect a tax for the grading, improvement and maintenance of the streets, alleys and hignways and for the construction and repair of crossings, culverts, and bridges within the corporate limits of such villages. This tax shall be levied on or before the third Tuesday of May in each year. This tax shall be based upon and computed on the assessment of the village as returned by the state board of equalization for the preceding year. This tax shall be levied in a specific amount, and the rate thereof shall not exceed five mills on the dollar of the assessed valuation; but it shall not be considered as being any part of those village taxes, which by laws now in effect, are limited to ten mills on the dollar of the assessed valuation.

§ 2. TAX MAY BE PAID IN WORK OR CASH.] Any person against whom, or against whose property, such tax has been levied shall have the right to pay the same in work to be performed under the supervision and direction of the street commissioners at the rate of one dollar and fifty cents for eight hours of work of one man, or three dollars for eight hours work of one man with one two-horse team. All taxes not paid in work or cash to the street commissioners, shall be collected by the officer collecting the taxes for such village.

§ 3. VILLAGE CLERK TO PROVIDE ROAD TAX BOOKS.] It shall be the duty of the village clerk to provide each street commissioner with a suitable book containing the name of each person, firm, or corporation liable for road poll, personal property or real estate road taxes and the amount of such taxes and the description of the real property upon which the tax is levied.

§ 4. DUTIES OF STREET COMMISSIONERS.] Each street commissioner shall give at least twenty-four hours' notice to each person against whom, or against whose property, a road tax has been levied of the time and place where the work is to be performed. He shall write the word "paid" opposite each item of tax paid to him in work or in cash and return the road tax book to the village clerk on or before the fifteenth day of September with his affidavit attached stating that each item of tax opposite which the word "paid" is written has been paid in work or in cash, and that each item of tax opposite which the word "paid" is not written remains unpaid and delinquent.

§ 5. VILLAGE CLERK TO MAKE LIST OF DELINQUENT ROAD TAXES.] In all cases where the village taxes are computed by the county auditor, it shall be the duty of the village clerk on or before the first day of October of each year to make out and deliver to the county auditor a complete statement of all unpaid road taxes in his village as the same appear in the road tax book returned to him by the street commissioners, and it shall be the duty of such county auditor to make proper entries of such delinquent road taxes on the tax list for the current year. In case the village is preparing its own tax list, the village clerk shall cause such delinquent road tax to be properly entered on the village tax list.

§ 6. CERTAIN TOWNSHIP LAWS APPLICABLE TO VILLAGES.] The same powers and duties in regard to the levy, collection, and expenditure of road taxes, which are now by law conferred and imposed upon township supervisors, township road overseers, justices and constables, are hereby conferred and imposed upon the corresponding village officers in so far as such powers and duties do not conflict with the provisions of this act. The village trustees shall also have power to expend any portion of the road taxes levied by and in such village in the improvement of public highways outside of the corporate limits of such village but leading thereto: provided, that the authorities having jurisdiction over such highways do not object.

Approved March 14, 1907.

# CHAPTER 268.

[H. B. No. 14—Berndt Anderson]

## POWERS OF VILLAGE TRUSTEES.

AN ACT to Amend Section 2864 of the Revised Codes of North Dakota for 1905, Relating to the General Powers of the Board of Trustees of Incorporated Villages.

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

§ 1. AMENDMENT.] Section 2864 of the revised codes of North Dakota for 1905 is amended and re-enacted so as to read as follows:

§ 2864. GENERAL POWERS.] The board of trustees shall have the following powers:

1. To have a common seal, and alter the same.

2. To purchase, hold or convey any estate, real or personal, for the use of the corporation so far as such purchase may be necessary to carry out the objects contemplated by this chapter, to provide for the erection and care of all public buildings necessary for the use of the village, and to control the finances and property of the corporation.

3. To organize fire companies, hook and ladder companies, to regulate their government and the times and manner of their exercise; to provide all necessary apparatus for the extinguishment of fires, to make owners of buildings provide ladders and fire-buckets, which are hereby declared to be appurtenances to the real estate and exempt from execution, seizure or sale; and if the owner shall refuse to procure suitable ladders or fire-buckets after reasonable notice, the trustees may procure and deliver the same to him; and in default of payment thereof may recover of said owner the value of said ladder and fire buckets, by suit before the justice of the peace of the village and the costs accruing thereby; to regulate the storage of gunpowder and other material; to direct the construction of a place for the safe deposit of ashes; and may under any order by it entered upon the proper book of the board. visit, or appoint one or more fire wardens to visit and examine at all reasonable hours dwelling houses, lots, yards, inclosures and buildings of every description, discover if any of them are in a dangerous condition and provide proper remedies for such dangers; to regulate the manner of putting up stoves and stovepipes; to prevent out-fires and the use of fireworks and the discharge of firearms within the limits of said corporation, or such parts thereof as it may think proper; to compel the inhabitants of such village to aid in extinguishment of fire and prevent its communication to other buildings, under such penalties as are in this chapter

provided; to construct and preserve reservoirs, wells, pumps and other waterworks, and to regulate the use thereof and generally to establish other measures of prudence for the prevention or extinguishment of fires as it shall deem proper.

4. To construct and keep in repair culverts, drains, sewers, catchbasins, manholes and cesspools, and to regulate the use thereof, and to regulate the construction and use of any culvert, drain, sewer, catchbasin, manhole or cesspool within the corporate limits and to declare what shall constitute a nuisance and to abate and remove the same, and impose fines upon persons who may create, continue or suffer nuisances to exist, and take such other measures for the preservation of the public health as it shall deem necessary: to license, tax, regulate, suppress and prohibit hawkers, peddlers, salesmen, pawnbrokers, keepers of ordinaries, theatricals, and other exhibitions, shows and amusements within the corporation.

5. To regulate, restrain and prohibit the running at large of horses, cattle, swine, sheep, goats, geese and dogs, and to impose a tax or license on dogs, not to exceed two dollars on each male dog, and three dollars on each female dog owned or kept within such village.

6. To license, regulate, tax or prohibit and suppress pool, billiards, bagatelle, pigeonhole or any other tables or implements kept or used for a similar purpose in any place of public resort, pin-alleys and ball-alleys; to restrain, suppress and prohibit gambling and gambling houses, and other disorderly conduct and places, lotteries and all fraudulent devices and practices for the purpose of gambling or obtaining money or property, and to prohibit the sale or exhibition of obscene or immoral publications, print, pictures or illustrations, and authorize the seizure and destruction of gambling apparatus; to suppress bawdy and disorderly houses, houses of ill fame or assignation within the limits of the village, and within one mile of the outer boundaries of the village.

7. To license, regulate or restrain auction establishments, traveling peddlers and public exhibitions within the corporation.

8. To establish and regulate markets and build market houses.

9. To lay out, open, grade and otherwise improve the streets, alleys, sewers, sidewalks and crossings, and to keep them in repair and to vacate the same.

10. To appoint street commissioners and also fire wardens, not exceeding three.

11. To regulate the building and use of sidewalks and all structures thereunder; to require the owner or occupant of any premises to keep sidewalks in front of or along the same free from snow and other obstructions, and to prohibit the riding or driving thereon except to cross the same; to provide for the building, use and regulation of crosswalks, curbs and gutters; to regulate and prevent the use of streets, alleys, sidewalks and public

grounds, for signs, signposts, awnings, telegraph and telephone poles, horse troughs, scales, racks, posting handbills and advertisements; to regulate and prevent the throwing or depositing of ashes, offal, manure, dirt, garbage or anything offensive in, and to prevent injury to any street, avenue, alley or public ground; to regulate and prohibit the exhibition or carrying of banners, placards, advertisements or handbills in the streets or public grounds or upon the sidewalk; to regulate and prevent the flying of flags, banners or signs across the street or from houses; to regulate traffic and sales upon the streets, sidewalks and public places; to regulate the speed of horses and other animals, vehicles, bicycles, cars, locomotives and traction engines within the limits of the corporation.

12. To establish and erect a jail for the confinement of disorderly persons, vagrants, tramps and idle persons, and persons convicted of violating any village ordinance, and make rules and regulations for the government of the same, and appoint necessary jailors and keepers; to prevent and suppress riots, routs, affrays, noises, disturbances and disorderly assemblies in any public or private place.

13. To insure the public property of such village.

14. To establish and regulate cemeteries within, or within one mile of the corporation and acquire lands therefor by purchase or otherwise, and cause cemeteries to be removed and prohibit their establishment within one mile of the corporation.

15. To plant trees upon public grounds and along the streets of such village and to provide for their culture and preservation, and to enclose any public square or other public grounds within said corporation.

16. To levy and collect annual taxes, not exceeding ten mills on the dollar, assessed valuation.

17. To direct the location and regulate the management and construction of packing houses, smoke houses, renderies and slaughter houses; and prohibit any offensive or unwholesome business or establishment within, or within one mile of the limits of the corporation; to compel the owner of any grocery, cellar, stable, pigsty, privy, sewer or other unwholesome or nauseous house or place, to cleanse, abate, or remove the same, and regulate the location thereof.

18. To make and establish by-laws, ordinances and regulations not repugnant to the laws of this state as may be necessary to carry into effect the provisions of this chapter, and to repeal, alter or amend the same as shall seem to the board of trustees of such village to require; but every by-law, ordinance or regulation, unless in case of emergency, shall be published in a newspaper in such village, if one is printed therein, or posted in five public places at least ten days before the same shall take effect.

19. To prescribe fines, penalties and forfeitures for violations of this chapter, or of any by-laws or ordinances by it established, not exceeding ten dollars and the costs of prosecution for any one offense, which may be recovered by action in the name of the corporation, but such board may remit the whole or any part of the fine, costs, penalty or forfeiture; provided, that the fine assessed for the violation of any ordinance requiring a license shall not be less than the amount required to be paid for such license although it may exceed the sum of ten dollars.

20. To authorize the construction and maintenance of street railways, water mains and water pipes, and gas mains and gas pipes, along or through the streets and alleys within the corporate limits, and to grant franchises and rights to persons, associations or corporations for such purposes, and to regulate the same.

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

§ 3. EMERGENCY.] Whereas, an emergency exists, this act shall take effect and be in force from and after its passage and approval.

Approved March 13, 1907.

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## CHAPTER 269.

[H. B. No. 150—Miller]

### ACTS OF VILLAGE MARSHALS LEGALIZED.

AN ACT Amending Section 2887, of the Revised Codes of 1905, Relating to the Powers of Village Marshals and to Legalize Past Acts of Village Marshals.

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

§ 1. AMENDMENT.] Section 2887 of the revised codes of 1905 is amended to read as follows:

§ 2887. ACTS LEGALIZED.] Whereas, village marshals throughout the state have acted as constables by reason of a misapprehension as to the law, it is hereby provided that all past acts of said marshals, wherein they assumed to act as constables, is hereby legalized and made of the same effect and validity as if said marshals had been constables and that said marshals shall not be liable either civilly or criminally for so acting.

§ 2. EMERGENCY.] An emergency exists in this, that there is no legislation authorizing village marshals to serve civil process, this act shall take effect and be in force from and after its passage.

Approved March 19, 1907.

# VITAL STATISTICS

## CHAPTER 270.

[S. B. No. 222—McDonald, at request of the United States Census Bureau]

### VITAL STATISTICS.

AN ACT to Provide for the Immediate Registration of All Births and Deaths Throughout the State of North Dakota, by Means of Certificates of Births and Deaths, and Burial or Removal Permits; to Establish a Bureau of Vital Statistics at the Capitol of the State; and to Insure the Thorough Organization and Efficiency of the Registration of Vital Statistics Throughout the State on the Standard Forms Recommended by the United States Bureau of the Census and the American Public Health Association; and Providing Certain Penalties.

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

§ 1. BUREAU OF VITAL STATISTICS. STATE REGISTRAR.] For the complete and proper registration of births and deaths, for legal, sanitary and statistical purposes, there shall be, and hereby is, created and established a state bureau of vital statistics, to be under the immediate superintendence of the state board of health, and the secretary of said board shall have general supervision over the bureau which is hereby authorized to be established by the board, and for the purposes of this act he shall be ex-officio state registrar of vital statistics.

§ 2. DEPUTY REGISTRAR.] The state registrar may employ such clerical and other assistants as are necessary for the proper performance of the duties of the office, and fix their compensation within the amount appropriated therefor by the legislature. He shall designate, in writing, one of his assistants, who shall possess the powers and perform the duties of the state registrar during his absence, illness or disability, or during a vacancy in the office, and he is hereby empowered to make, promulgate and enforce such rules and regulations as he may consider necessary to carry out the provisions of this act. Suitable apartments shall be provided by the custodian of the capitol, in the state capitol at Bismarck, for the bureau of vital statistics, which shall be properly equipped with fire proof vault and filing cases for the safe and permanent preservation of all official records made and returned under this act.

§ 3. REGISTRATION DISTRICTS.] For the purposes of this act the state shall be divided into registration districts as follows: Each incorporated village and city and each township, exclusive of any incorporated village or city, shall constitute a primary registration district.

§ 4. LOCAL REGISTRARS, DUTIES OF. SUB-REGISTRARS.] The clerk of each township, village or city shall be the local registrar in and for the township, village or city of which he is clerk, and he shall perform all the duties of local registrar as hereinafter provided, and he shall immediately appoint in writing, a deputy, who shall be authorized to act in his stead in case of absence, illness or disability; provided, that in unorganized townships the state registrar may appoint suitable persons as local registrars, and when it may appear necessary for the convenience of the people in any township, the local registrar is hereby authorized, with the approval of the state registrar, to appoint one or more suitable and proper persons to act as sub-registrars, who shall be authorized to receive certificates and to issue burial or removal permits in and for such portions of the township as may be designated, and each sub-registrar shall note the date each certificate was filed, over his signature, and forward all certificates to the registrar of the township within ten days, and in all cases before the third day of the following month; provided, that all sub-registrars shall be subject to the supervision and control of the state registrar, and may be by him removed for neglect or failure to perform their duties in accordance with the provisions of this act, or the rules and regulations of the state registrar, and they shall be liable to the same penalties for neglect of duties as the local registrar.

§ 5. REGISTRATION OF BIRTHS.] All births that occur in the state shall be immediately registered in the districts in which they occur, as hereinafter provided.

§ 6. REGULATION OF BURIALS.] The body of any person whose death occurs in the state shall not be interred, deposited in a vault or tomb, cremated or otherwise disposed of, or removed from or into any registration district, until a permit for burial or removal shall have been properly issued by the registrar of the registration district in which the death occurs, and no such burial or removal permit shall be issued by any registrar until a complete and satisfactory certificate and return of the death has been filed with him, as hereinafter provided; provided, that in case of any death outside of the state, where the body is accompanied by a removal or transit permit, issued in accordance with the [law] and the health regulations in force where the death occurred, such removal or transit permit may be accepted as of the same authority as a permit from the local registrar.

§ 7. STILL-BORN CHILDREN TO BE REGISTERED.] Still-born children, or those dead at birth, shall be registered as births and also as deaths, and a certificate of both the birth and the death shall be filed with the local registrar in the usual form and manner, the certificate of birth to contain, in place of the name of the child, the words "still birth." The medical certificate of the cause of death shall be signed by the attending physician, and shall state the cause of death as "still born," with the cause of the still birth, if

known; whether a premature birth, and if born prematurely, the period of uterogestation in months, if known, and a burial or removal permit in the usual form shall be required.

§ 8. DEATH CERTIFICATE, FORM OF.] The certificate of the death shall be of the standard form recommended by the bureau of the census of the American health association, and shall contain the following items:

1. Place of death, including state, county, township or town, city or village. If in a city, the ward, street and house number. If in a hospital or other institution, the name of the same to be given instead of the street and house number.
2. Full name of decedent. If an unnamed child, the surname, preceded by "unnamed."
3. Sex.
4. Color or race, as white, black (negro or negro descent), Indian, Chinese, Japanese or other.
5. Conjugal condition, as single, married, widowed or divorced.
6. Date of birth, including the year, month and day.
7. Age, in years, months and days.
8. Place of birth, state or foreign country.
9. Name of father.
10. Birthplace of father, state or foreign country.
11. Maiden name of mother.
12. Birthplace of mother, state or foreign country.
13. Occupation, the occupation to be reported of any person who had any remunerative employment, women as well as men.
14. Signature and address and informant.
15. Date of death, including the year, month and day.
16. Statement of medical attendance on decedent, fact and time of death, including the time last seen alive.
17. Cause of death, including the primary and immediate causes and contributory causes or complications, if any, and the duration of each.
18. Signature and address of physician or official making the medical certificate.
19. Special information concerning deaths in hospitals and institutions, and of persons dying away from home, including the former or usual residence, length of time at place of death, and place where the disease was contracted.
20. Place of burial or removal.
21. Date of burial or removal.
22. Signature and address of undertaker.
23. Official signature of registrar, with date when certificate was filed and registered number.

The personal and statistical particulars (items 1 to 13) shall be authenticated by the signature of the informant, who may be any competent person acquainted with the facts. The statement of facts relating to the disposition of the body shall be signed

by the undertaker or person acting as such. The medical certificate shall be made and signed by the physician, if any, last in attendance on the deceased, who shall specify the time in attendance, the time he last saw the deceased alive, and the hour of the day at which death occurred; and he shall further state the cause of death so as to show the course of disease or sequence of causes resulting in death, giving the primary and immediate causes, and also the contributory causes, if any, and the duration of each. Indefinite and unsatisfactory terms indicating only symptoms of disease or conditions resulting from disease will not be held sufficient for issuing a burial or removal permit, and any certificate containing only such terms, as defined by the state registrar, shall be returned to the physician for correction and definition. Causes of death which may be the result of either disease or violence, shall be carefully defined, and if from violence, its nature shall be stated, and whether accidental, suicidal or homicidal. And in case of deaths in hospitals, institutions or away from home, the physician shall furnish the information required under this head (item 19) and shall state where, in his opinion, the disease was contracted, and the cause of death and all other facts required shall in all cases be stated in accordance with the rules and regulations of the state registrar.

§ 9. DEATH WITHOUT MEDICAL ATTENDANCE, DUTY OF UNDERTAKER.] In case of any death occurring without medical attendance it shall be the duty of the undertaker to notify the registrar of such death, and when so notified the registrar shall inform the local health officer and refer the case to him for immediate investigation and certification, prior to issuing the permit; provided, that when the local health officer is not a qualified physician, or when there is no such official, and in such cases only, the registrar is authorized to make the certificate and return from the statement of relatives or other persons having adequate knowledge of the facts; provided, further, that if the circumstances of the case render it probable that the death was caused by unlawful or suspicious means, the registrar shall then refer the case to the coroner for his investigation and certification.

§ 10. DUTIES OF UNDERTAKERS.] The undertaker or person acting as undertaker, shall be responsible for obtaining and filing the certificate of death with the registrar and securing a burial or removal permit prior to any disposition of the body. He shall obtain the personal and statistical particulars required from the person best qualified to supply them, over the signature and address of his informant He shall then present the certificate to the attending physician, if any, or to the health officer or coroner, as directed by the registrar, for the medical certificate of the cause of death and other particulars necessary to complete the records, as specified in section 8, and he shall then state the facts required relative to the date and place of burial, over his signature

and with his address, and present the completed certificate to the registrar within the time limit, if any, designated by the local board of health for the issuance of a burial or removal permit. The undertaker shall deliver the burial permit to the sexton or person in charge of the place of burial before interring the body, or attach the removal permit to the box containing the corpse, when shipped by any transportation company, to accompany same to destination, when it shall be accepted by the sexton as authority for interment of the body.

§ 11. BURIAL PERMIT, FORM OF.] If the interment or other disposition of the body is to be made in the registration district in which the death occurred, the wording of the burial permit may be limited to a statement by the registrar, and over his signature, that a satisfactory certificate of death having been filed with him as required by law, permission is granted to inter, remove or otherwise dispose of the body of the deceased, stating the name, age, sex, cause of death, and other necessary details upon the form prescribed by the state registrar. But in case the interment or other disposition of the body is to be made in some registration district other than that in which the death occurred, a complete copy of the certificate of death shall be attached to and made a part of the permit.

§ 12. DUTY OF SEXTONS. RECORD.] No sexton or person in charge of any premises in which interments are made shall inter or permit the interment of any body unless it is accompanied by a burial, removal or transit permit as herein provided, and each sexton or person in charge of any burial ground shall indorse upon the permit the date of interment over his signature, and shall return all permits, so indorsed, to the local registrar of his district within ten days from the date of interment, or within the time [limited] by the local board of health. He shall also keep a record of all interments made in the premises under his charge, stating the name of the deceased person, place of death, date of burial, and name and address of the undertaker, which record shall at all times be open to public inspection.

§ 13. CERTIFICATE OF BIRTH, FILED WHEN AND BY WHOM.] It shall be the duty of the attending physician or midwife to file the certificate of birth properly and completely filled out, giving all the particulars required by this act, with the local registrar of the district in which the birth occurred, within three days after the date of birth, and if there be no attending physician or midwife, then it shall be the duty of the father of the child, householder or owner of the premises, manager or superintendent of public or private institution in which the birth occurred, to file said certificate of birth with the local registrar within three days after the birth.

§ 14. FORM OF CERTIFICATE.] The certificate of birth shall be of the standard form recommended by the bureau of the census and shall contain the following items:

1. Place of birth, including state, township or town, village or city. If in a city, the ward, street and house number. If in a hospital or other institution the name of the same to be given instead of the street and house number.

2. The full name of child. If the child dies without a name before the certificate is filed, enter the words "died unnamed." If the living child has not been named at the date of filing the certificate of birth, the space for "full name of child" is to be left blank, to be filled out subsequently by a supplemental report as hereinafter provided.

3. Sex of child.

4. Whether a twin, triplet or other plural birth. A separate certificate shall be required for each child of plural birth, giving number of child in order of birth.

5. Whether legitimate or illegitimate.

6. Full name of father.

7. Residence of father.

8. Color or race of father.

9. Birthplace of father.

10. Age of father at last birthday, in years.

11. Occupation of father.

12. Maiden name of mother, in full.

13. Residence of mother.

14. Color or race of mother.

15. Birthplace of mother.

16. Age of mother at last birthday, in years.

17. Occupation of mother.

18. Number of child of this mother, and number of children of this mother now living.

19. Certificate of attending physician or midwife as to attendance at birth, including statement of year, month, day and hour of birth, and whether the child was dead or alive at birth. This certificate shall be signed by the attending physician or midwife, with date of signature and address. If there was no physician or midwife in attendance, then the father of the child, householder or owner of the premises, or manager or superintendent of public or private institution, or other competent person whose duty it shall become to file the certificate of birth as required by section 13 of this act, shall draw a line through the words "I hereby certify that I attended the birth of above child," and shall write in lieu thereof the words "no physician or midwife," filling out the remainder of the certificate in regard to the year, month, day and hour of birth, and signing the certificate as father, householder, owner of premises, manager or superintendent of institution, as the case may be, with his address.

20. Exact date of filing in office of local registrar, attested by his official signature and registered number of birth, as hereinafter provided.

All certificates, either of birth or death, shall be written legibly in unfading black ink, and no certificate shall be held to be complete and correct that does not supply all of the items of information called for therein or satisfactorily account for their omission.

§ 15. SUPPLEMENTAL REPORT GIVING NAME OF CHILD.] When any certificate of birth of a living child is presented without statement of the given name, then the local registrar shall make out and deliver to the informant a special blank for the supplemental report of the given name of the child, which shall be filled out as directed, and returned to the registrar as soon as the child shall be named. The original certificate of birth shall not be considered complete until the supplemental report is filed or the blank returned with the statement "died unnamed."

§ 16. PHYSICIANS, MIDWIVES AND UNDERTAKERS TO BE REGISTERED.] Every physician, midwife and undertaker shall, without delay, register his or her name, address and occupation with the local registrar of the district in which he or she resides, or may hereafter establish a residence, and shall thereupon be supplied by the local registrar with a copy of this act, together with such rules and regulations as may be prepared by the state registrar relative to its enforcement. Within thirty days after the close of each calendar year each local registrar shall make a return to the state registrar of all physicians and midwives who have been registered in his district during the whole or any part of the preceding calendar year, and in certifying names for payment for certificates of birth filed, the state registrar shall not include any physicians or midwives who have not complied with the requirements of this section; provided, that no fee or other compensation shall be charged by local registrars to physicians, midwives or undertakers for registering their names under this section, or making returns thereof to the state registrar.

§ 17. HOSPITALS TO KEEP RECORD.] All superintendents or managers or other persons in charge of hospitals, lying-in or other institutions, public or private, to which persons resort for treatment of disease, confinement or are committed by process of law, are hereby required to make a record of all of the personal and statistical particulars relative to the inmates in their institutions at the date of approval of this act, that are required in the form of certificate herein provided for, as directed by the state registrar, and thereafter such record shall be by them made for all future inmates at the time of admission, and in case of persons admitted or committed for medical treatment of disease the physician in charge shall specify for entry in the record, the nature of the disease, and where, in his opinion, it was contracted. The personal particulars and information required by this section shall be obtained from the individual himself, if it is practicable to do so, and when they cannot be so obtained, they shall be secured in as complete a manner as possible from the relatives, friends or other persons acquainted with the facts.

§ 18. BLANKS AND FORMS FURNISHED BY STATE REGISTRAR.] The state registrar shall prepare, print and supply to all registrars all blanks and forms used in registering, recording and preserving the returns, or in otherwise carrying out the purposes of this act, and shall prepare and issue such detailed instructions as may be required to secure the uniform observance of its provisions and the maintenance of a perfect system of registration, and no other blanks shall be used than those supplied by the state registrar. He shall carefully examine the certificates received monthly from the local registrars, and if any such are incomplete or unsatisfactory, he shall require such further information to be furnished as may be necessary to make the record complete and satisfactory, and all physicians, midwives, informants or undertakers connected with any case, and all other persons having knowledge of the facts are hereby required to furnish such information as they may possess regarding any birth or death, upon demand of the state registrar, in person, by mail, or through the local registrar. He shall further arrange, bind and permanently preserve the certificates in a systematic manner, and shall prepare and maintain a comprehensive and continuous card index of all births and deaths registered, the card to show the name of child or deceased, place and date of birth or death, number of certificate, and the volume in which it is contained. He shall inform all registrars what diseases are to be considered as infectious, contagious, or communicable and dangerous to the public health, as decided by the state board of health, in order that when deaths occur from such diseases proper precautions may be taken to prevent the spreading of dangerous diseases.

§ 19. LOCAL REGISTRARS TO CORRECT RETURNS.] It shall be the duty of the local registrar to supply blank forms of certificates to such persons as require them, and he shall carefully examine each certificate of birth or death when presented for record to see that it has been made out in accordance with the provisions of this act and the instructions of the state registrar, and if any certificate of death is incomplete or unsatisfactory it shall be his duty to call attention to the defects in the return and to withhold issuing the burial or removal permit until they are corrected. If the certificate of death is properly executed and complete, he shall then issue a burial or removal permit to the undertaker; provided, that in case the death occurred from some disease that is held by the state board of health to be infectious, contagious or communicable and dangerous to the public health, no permit for the removal or other disposition of the body shall be granted by the registrar except under such conditions as may be prescribed by the state and local boards of health. If a certificate of birth is incomplete he shall immediately notify the informant and require him to supply the missing items if they can be obtained. He shall then number consecutively the certificates of birth and of death in two

separate series, beginning with "number one" for the first birth, and the first death in each calendar year, and sign his name as registrar in attest of the date of filing in his office. He shall also make a complete and accurate copy of each birth and death certificate registered by him, upon a form identical with the original certificate, to be filed and permanently preserved in his office as the local record of such death, in such manner as directed by the state registrar, and he shall on the fifth day of each month, transmit to the state registrar all original certificates registered by him during the preceding months, and if no births and no deaths occur in any month he shall, on the fifth day of the following month, report that fact to the state registrar in such manner as the state registrar shall direct.

§ 20. FEES OF REGISTRARS.] Each local registrar shall be entitled to be paid the sum of twenty-five cents for each birth and each death certificate properly and completely made out and registered with him, and correctly copied and duly returned by him to the state registrar, as required by this act; provided, that in cities in which the city clerk or health officer, acting as registrar, receives a fixed salary in lieu of fees, no further compensation shall be paid for the duties required by this act. In case no births or no deaths were registered during any month, the local registrar shall be entitled to be paid the sum of twenty-five cents for each report to that effect promptly made in accordance with the directions of the state registrar. All amounts payable to registrars under provisions of this section shall be paid by the county in which the registration districts are located upon certification by the state registrar, and the state registrar shall annually certify to the auditors of the several counties the number of births and deaths registered with the names of local registrars and the amounts due each at the rates fixed herein.

§ 21. CERTIFIED COPIES OF RECORD OF BIRTHS OR DEATHS, FEES FOR.] The state registrar shall, upon request, furnish any applicant a certified copy of the record of any birth or death registered under provisions of this act, for the making and certification of which he shall be entitled to a fee of fifty cents to be paid by the applicant, and any such copy of the record of a birth or death, when properly certified by the state registrar to be a true copy thereof, shall be prima facie evidence in all courts and places of the facts therein stated. For any search of the files and records, when no certified copy is made, the state registrar shall be entitled to a fee of fifty cents for each hour or fractional hour of time of search, to be paid by the applicant, and the state registrar shall keep a true and correct account of all fees by him received under these provisions, and turn the same over to the state treasurer.

§ 22. PENALTY FOR FAILURE TO COMPLY WITH LAW.] If any physician who was in medical attendance upon any deceased person at the time of death shall neglect or refuse to make out and deliver

to the undertaker, sexton or other person in charge of the interment, removal or other disposition of the body, upon request, the medical certificate of cause of death hereinbefore provided for, he shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than five dollars nor more than fifty dollars, and if any physician shall willfully or knowingly make a false certification of the cause of death in any case, he shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined not less than fifty dollars nor more than two hundred dollars, and any physician or midwife in attendance upon a case of confinement, or any other person charged with responsibility for reporting births, in the order named in section 13 of this act, who shall neglect or refuse to file a proper certificate of birth with the local registrar within the time required by this act, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than five dollars nor more than fifty dollars. If any undertaker, sexton or other person acting as undertaker shall inter, remove or otherwise dispose of the body of any deceased person without having received a burial or removal permit as herein provided, he shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than twenty dollars nor more than one hundred dollars. Any registrar, deputy registrar, or sub-registrar who shall neglect or fail to enforce the provisions of this act in his district or shall neglect or refuse to perform any of the duties imposed upon him by this act, or by the instructions and directions of the state registrar, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than ten dollars nor more than one hundred dollars. Any person who shall willfully alter any certificate of birth or death, or the copy of any certificate of birth or death, on file in the office of the local registrar, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than ten dollars nor more than one hundred dollars, or be imprisoned in the county jail not exceeding sixty days, or suffer both fine and imprisonment in the discretion of the court. Any other person or persons who shall violate any of the provisions of this act, or shall willfully neglect or refuse to perform any duties imposed upon them by the provisions of this act, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than five dollars nor more than one hundred dollars. Any transportation company or common carrier transporting or carrying, or accepting through its agents or employes for transportation or carriage, the body of any deceased person without an accompanying permit, issued in accordance with the provisions of this act shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than fifty dollars, nor more than two hundred dollars; provided, that in case the death occurred outside the state and the body is accompanied by a certificate of death, burial, or removal, or transit per-

mit, issued in accordance with the law or board of health regulations in force where the death occurred, such death certificate, burial, or removal, or transit permit may be held to authorize the transportation or carriage of the body into or through the state.

§ 23. ENFORCEMENT OF LAW, WHO CHARGED WITH.] Local registrars are hereby charged with strict and thorough enforcement of the provisions of this act in their districts, under the provision and direction of the state registrar. They shall make an immediate report to the state registrar of any violation of this law coming to their notice by observation or upon complaint of any person, or otherwise. The state registrar is hereby charged with the thorough and efficient execution of the provisions of this act in every part of the state, and with supervisory powers over local registrars to the end that all of these requirements shall be uniformly complied with. He shall have authority to investigate cases of irregularity or violation of law, personally or by accredited representative, and all registrars shall aid him, upon request, in such investigation. When he shall deem it necessary, he shall report cases of violation of any of the provisions of this act to the prosecuting attorney or official of the proper county or municipality, with a statement of the facts and circumstances, and when any such case is reported to them by the state registrar, all prosecuting attorneys, or officials acting in such capacity, shall forthwith initiate and promptly follow up the necessary court proceedings against the parties responsible for the alleged violations of law, and upon request of the state registrar the attorney general shall likewise assist in the enforcement of the provisions of this act.

§ 24. COUNTY AUDITOR TO FURNISH NAMES OF TOWNSHIP CLERKS.] It is hereby made the duty of each county auditor to furnish, after each township election, the name of the clerk of each organized civil township within his county, with his postoffice address, to the state registrar of vital statistics; and any auditor who shall willfully neglect or refuse to furnish such names shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than ten dollars nor more than fifty dollars.

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

Approved March 19, 1907.

# WATER COURSES

## CHAPTER 271.

[S. B. No. 206—Cashel]

### WATER COURSE DEFINED.

AN ACT Defining a Water Course.

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

§ 1. DEFINED.] A water course entitled to the protection of the law is constituted, if there is a sufficient natural and accustomed flow of water to form and maintain a distinct and a defined channel. It is not essential that the supply of water should be continuous or from a perennial living source. It is enough if the flow arises periodically from natural causes and reaches a plainly defined channel of a permanent character.

§ 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 the fact that there is no law on our statute book defining a water course, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 8, 1907.

# WEATHER BUREAU

## CHAPTER 272.

[S. B. No. 48—Little]

### STATE WEATHER BUREAU ABOLISHED.

AN ACT to Repeal Sections 395, 396, 397, 398 and 399 of the Revised Codes of 1905, Relating to State Weather Bureau.

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

§ 1. REPEAL.] Sections numbered 395, 396, 397, 398 and 399 of the revised codes of 1905 be, and the same are, hereby repealed.

Approved March 7, 1907.

# WEIGHTS AND MEASURES

## CHAPTER 273.

[H. B. No. 275—Special Committee on Weights and Measures]

### INSPECTION OF WEIGHTS AND MEASURES.

AN ACT Designating the Sheriff of Each County Inspector and Sealer of Weights and Measures, Prescribing His Powers, Duties and Compensation, Defining the Standard of Weights and Measures for the Inspector and Prescribing the Penalties for Violation of this Act.

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

§ 1. SHERIFF INSPECTOR OF WEIGHTS AND MEASURES. DEPUTY.] The sheriff of each county within the state shall be the inspector and sealer of weights and measures. He shall have power to appoint a deputy to perform the duties hereinafter provided, who must be a person qualified by experience and training to intelligently perform the same, but he may be a regular deputy sheriff provided he has the qualifications above described. The deputy shall have the same power and perform the same duties under this article as the inspector and sealer and shall take and subscribe the oath required by other county officers.

§ 2. TESTS, MADE WHEN. RECORD.] The inspector and sealer or his deputy shall once in each year test all weights and measures, scale beams, patent balances, steelyards and other instruments used in weighing or measuring any commodity sold by weight or measure in his county by the duplicates of said weights and measures as are hereinafter provided; provided, the inspector of weights and measures or his deputy may test wagon scales oftener than once each year if he has reason to believe that the same are not weighing correctly. He shall give to the person in charge of such weights or measures a certificate of the correctness thereof, if found to be correct, and if found to be incorrect, he shall cause the same to be corrected, if he can and if not he shall mark the same "condemned" and in case of short weights or measures that cannot be corrected he shall condemn, confiscate and keep the same for evidence. He shall keep a record of all such certificates issued by him and of all his transactions under this article, and shall file with the county auditor during the month of December of each year a statement showing the date of examination and giving the names of the persons, firms or corporations whose scales, weights and measures have been by him examined, and setting out against such names an enumeration of any scales, weights or measures by him so condemned.

§ 3. STANDARD ESTABLISHED.] The standard of weights and measures shall be the standard adopted by the government of the United States and any person who knowingly uses for the purpose of purchase or sale or keeps for public use a weight, measure, scale, balance or beam which does not conform to the standard of weights and measures adopted by the state, or who alters a weight, measure, scale, balance or beam after it has been adjusted and sealed so that it does not conform to such standard and fraudulently makes use thereof, shall be fined for each offense fifty dollars.

§ 4. COUNTY COMMISSIONERS PURCHASE DUPLICATE WEIGHTS AND MEASURES.] The board of county commissioners of each county shall purchase such duplicates of weights and measures enumerated in section 2191 of the code of 1905, as are deemed necessary for the use of the inspector in the carrying out of the provisions of this act, which duplicates shall be paid for by the county and be delivered to the inspector who shall be responsible to the county under his bond as sheriff for their delivery to his successor in office.

§ 5. FEES.] The inspector and sealer of weights and measures shall be entitled to demand and receive for his compensation for the inspection hereinafter provided for and the furnishing to the person whose weights and measures are inspected, a certificate of such inspection, the following fees:

| | |
|---|---|
| For inspecting and sealing railroad and track scales of capacity of twenty tons and upwards .... .... .... .... | $3.00 |
| For inspecting and sealing scales of from three to twenty tons capacity, each.... ..... ..... .. .... .... .... | 1.50 |
| For inspecting and sealing dormant scales, each .... .... | 1.00 |
| For inspecting and sealing movable platform scales, each | .50 |
| For inspecting and sealing beams weighing one hundred pounds and upwards, each ..... | .25 |
| For inspecting and sealing hopper scales, each .... .... | 1.00 |
| For inspecting and sealing counter scales, each .... .... | .25 |
| For inspecting and sealing every patent balance, beam, steelyard or other instrument used for weighing other than the above enumerated, each ..... | .25 |

Provided, that when any establishment uses more than three of such scales the fee for inspection of which is twenty-five cents each, then any further number shall be tested for fifteen cents each, and with each scale tested and sealed by him he shall inspect and seal one set of weights without any additional charge or compensation.

| | |
|---|---|
| For inspecting and sealing any two bushel or one bushel measure, each .... .... .... .... .... .... .... .. | .25 |
| For inspecting and sealing any other dry measure, each | .10 |
| For inspecting and sealing liquid measures of a capacity of five gallons or more, each .... .... .... .... .... .. | .25 |
| For inspecting and sealing liquid measures of less than five gallons and not less than one gallon.... .... .... .... | .15 |
| For inspecting and sealing anything less than one gallon | .10 |
| For inspecting and sealing any board or cloth measure, each .... .... .... ..... .... .... .. .. ..... | .10 |

When the inspector and sealer shall find any of the instruments or articles used in weighing or measuring to be wrongly adjusted, misconstructed, out of repair or in any other condition which can be remedied by him, it shall be his duty to correct such scale or measure and he shall receive for such service fifty cents per hour for the actual and necessary time consumed in making such corrections and shall receive just compensation for any material used in such correction.

§ 6. PENALTY FOR FALSE WEIGHTS AND MEASURES.] If any person knowingly uses a false weight, measure, scale, balance or beam after such weight, measure, scale, balance or beam has been adjusted and sealed and alters it so that it does not conform to the public standard and fraudulently makes use of it, he shall forfeit for each offense fifty dollars, and every inspector and sealer who has reasonable cause to believe that a weight, measure, balance or beam has been altered since it was last adjusted and sealed shall enter the premises in which it is kept or used and shall examine the same and if found tampered with, shall have power to seal them in such a manner that they cannot be used until such disability is removed and such scale, balance or beam shall be kept sealed until such fine is paid. The inspector or sealer shall in no case seal or mark as correct any weights, measures or balances which do not conform to the standard. If such weights, measures or balances can be readily adjusted as heretofore provided, he may adjust and seal them, but if they cannot by him be adjusted he shall affix to such weight, measure or balance a notice prohibiting their use until he is satisfied that they have been so adjusted as to conform to the standard and whoever removes said notice without the consent of the officer affixing the same, shall for each offense forfeit a sum not exceeding fifty dollars. The sealer or deputy sealer of weights and measures may seize without warrant such weights, measures or balances as may be necessary to be used as evidence in case of violation of the law relating to the sealing of weights and measures, such weights, measures or balances to be returned to the owner or forfeited as the court may direct.

§ 7. COMPLAINTS, HOW LODGED.] Any person believing any dealer is violating the provisions of this act may make complaint, in writing, to any inspector or sealer or his deputy and deposit with him five dollars, setting forth the particular facts relating to such violation and that he has reason to believe that the same are true. Upon such complaint such sealer or his deputy shall forthwith test the scales, weights and measures respecting the matter complained of, by his duplicates, and if found to conform thereto he may convert the five dollars so deposited to his own use as his fee for such services. If he finds that any of the matters so complained of are true he shall return the five dollars to the complainant and it shall be his duty forthwith to arrest the person in charge of such scale and take him before a justice of the peace in the county for

trial and upon conviction such person, whether the owner or not, shall be guilty of a misdemeanor and punished accordingly. In all such cases the sealer or deputy sealer making the test shall make and swear to the complaint and shall be entitled to the same fees as allowed officers making an arrest upon a warrant, besides the sum of one dollar for making the test.

§ 8. PENALTY FOR MISLEADING INSPECTOR.] Any person who shall willfully obstruct or mislead the inspector or sealer in the execution of his duties as herein provided, shall be subject to conviction and punishment therefor in the same manner as is now provided for the conviction and punishment of persons opposing or hindering an officer ministerial, judicial or executive, under the laws of the state and the inspector and sealer shall have full power and authority for the various purposes named to examine any weights, measures, scales, balances or beams.

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

§ 10. EMERGENCY.] Whereas, there is now no law providing for the inspection of weights and measures by the sheriffs of each county, therefore, this act shall take effect from and after its passage and approval.

Approved March 23, 1907.

# WORKHOUSES

## CHAPTER 274.

[H. B. No. 107—Dean]

### COUNTY WORKHOUSES.

AN ACT Authorizing and Prescribing the Manner in Which County Workhouses May Be Erected and Maintained.

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

§ 1. COUNTY WORKHOUSES, HOW PROVIDED.] The board of county commissioners of any county shall, whenever they deem it advisable, vote upon the question of providing a workhouse wherein persons confined to the county jail of said county shall be compelled to work at hard labor, and said board of county commissioners shall prescribe the kind of work such convicts shall be employed at and furnish the necessary tools and materials. Such vote shall be in all respects conducted by the said board of county commis-

sioners in the regular meeting and according to the provisions of law.

§ 2. VOTE ON PROPOSITION.] Whenever the county commissioners shall have voted to establish such workhouse, then at the next general election, but at no other time, this question shall be submitted to the 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.

§ 3. BALLOTS, FORM OF.] The ballots to be issued at such elections shall be in the following form: "For the establishment of workhouse," and "against establishment of workhouse." 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 for the establishment of such a workhouse, then it shall be the duty of the county commissioners to provide for a workhouse for such county.

Approved March 14, 1907.

# PROPOSED AMENDMENTS TO CONSTITUTION

## CONCURRENT RESOLUTION.

[H. B. No. 43—Sorley]

A CONCURRENT RESOLUTION Amending the Constitution of the State of North Dakota, Relating to Railroad Corporations and Requiring Them to Maintain a Public Office or Place in the State for the Transaction of Business.

*Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring:*

That the following proposed amendment to section 140 of the constitution of the state of North Dakota be referred to the legislative assembly to be chosen at the next general election in said state, to be by the 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 section 140 of the constitution of the state of North Dakota is amended to read as follows:

§ 140. AMENDMENT. RAILROAD CORPORATIONS AND COMMON CARRIERS REQUIRED TO KEEP OFFICE IN THE STATE AND MAKE REPORTS.] Every railroad corporation and common carrier organized in, or doing business in this state, under the laws or authority thereof, shall have and maintain a public office or place in the state for the transaction of its business, where a record of the transfers of its stock shall be made and in which shall be kept for public inspection, books in which shall be recorded the amount of capital stock subscribed and by whom, the names of the owners of the stock and the amount owned by them respectively, the amount of stock paid in and by whom, and the transfers of said stock; the amount of its assets and liabilities and the names and place of residence of its officers. The directors of every railroad corporation and of every common carrier doing business in this state shall annually make a report, under oath, to the auditor of public accounts, or some officer or officers to be designated by law, of all their acts and doings, which report shall include such matters relating to railroads and common carriers as may be prescribed by law. Similar reports shall be made to such other officers and

at such times and places as may be required by law and the legislative assembly shall pass laws enforcing by suitable penalties the provisions of this section.

Filed in the office of the secretary of state March 23, 1907.

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## CONCURRENT RESOLUTION.

[H. B. No. 26—Ueland]

For an Amendment to the Constitution Providing for the Initiative and Referendum.

*Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring:*

That the following amendment to the constitution, providing for the initiative and referendum, shall be referred to the next legislative assembly and, with the approval of said legislative assembly, be submitted to the qualified electors for adoption or rejection.

### AMENDMENT.

Section 25 of article 2 of the constitution of the state of North Dakota shall be and hereby is amended to read as follows:

§ 25. The legislative authority of the state of North Dakota shall be vested in a legislative assembly consisting of a senate and house of representatives, but the people reserve to themselves power to propose laws and amendments to the constitution, and to enact or reject the same at the polls, independent of the legislative assembly, and also reserve power, at their own option, to approve or reject at the polls any act, item, section or part of any act or measure passed by the legislative assembly.

The first power reserved by the people is the initiative, and not more than eight per cent of the legal voters shall be required to propose any measure by initiative petition, and every such petition shall include the full text of the measure so proposed, but the same constitutional amendment shall not be proposed oftener than once in ten years. Initiative petitions shall be filed with the secretary of state not less than thirty days before any regular session of the legislative assembly. He shall transmit the same to the legislative assembly as soon as it convenes. Such initiative measures shall take precedence over all other measures in the legislative assembly except appropriation bills, and shall be either enacted or rejected without change or amendment by the legislative assembly within forty days. If any such initiative measure shall be enacted by the legislative assembly it shall be subject to referendum petition or it may be referred by the legislative assembly to the people for approval or rejection. If it is rejected or no action is taken upon it by the legislative assembly within said forty days, the secretary of state shall submit it to the people for approval or rejection at the next ensuing regular general election.

The legislative assembly may reject any measure so proposed by initiative petition and propose a different one to accomplish the same purpose, and in any such event both measures shall be submitted by the secretary of state to the people for approval or rejection at the next ensuing regular election. If conflicting measures submitted to the people at the next ensuing election shall be approved by a majority of the votes severally cast for and against the same, the one receiving the highest number of affirmative votes shall thereby become valid and the other shall thereby be rejected.

The second power is the referendum, and it may be ordered (except as to laws necessary for the immediate preservation of the public peace, health or safety) as to any measure or any parts, items or sections of any measure passed by the legislative assembly, either by a petition signed by five per cent of the legal voters or by the legislative assembly if a majority of the members-elect vote therefor. When it is necessary for the immediate preservation of the public peace, health or safety that a law shall become effective without delay, such necessity and the facts creating the same shall be stated in one section of the bill, and if upon aye and nay vote in each house two-thirds of all the members elected to each house shall vote on a separate roll call in favor of the said law going into instant operation for the immediate preservation of the public peace, health or safety, such law shall become operative upon approval by the governor.

The filing of referendum petition against one or more items, sections or parts of an act shall not delay the remainder of that act from becoming operative. Referendum petitions against measures passed by the legislative assembly shall be filed with the secretary of state not more than ninety days after the final adjournment of the session of the legislative assembly which passed the measure on which the referendum is demanded. The veto power of the governor shall not extend to measures referred to the people. All elections on measures referred to the people of the state shall be had at biennial regular general elections, except as provision may be made by law for a special election or elections. Any constitutional amendment or other measure referred to the people shall take effect when it is approved by a majority of the votes cast thereon and not otherwise, and shall be in force from the date of the official declaration of the vote. The enacting clause of all initiative bills shall be "Be it enacted by the people of the state of North Dakota." This section shall not be construed to deprive any member of the legislative assembly of the right to introduce any measure. The whole number of votes cast for justice of the supreme court at the regular election last preceding the filing of any petition for the initiative or for the referendum shall be the basis on which the number of legal voters necessary to sign such petition shall be counted. Petitions and orders for the

initiative and for the referendum shall be filed with the secretary of state, and in submitting the same to the people he and all other officers shall be guided by the general laws and the act submitting this amendment until legislation shall be especially provided therefor. This amendment shall be self-executing, but legislation may be enacted especially to facilitate its operation.

Filed in the office of the secretary of state March 23, 1907.

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## CONCURRENT RESOLUTION.

[H. B. No. 116—C. A. Johnson]

Amending the Constitution of the State of North Dakota, Establishing and Locating a State Normal School in the City of Minot, County of Ward.

*Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring:*

That the following proposed amendment to section 216 of the constitution of the state of North Dakota be referred to the legislative assembly to be chosen at the next general election in said state 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 section 216 of the constitution of the state of North Dakota be amended to read as follows:

§ 216. The following named public institutions are hereby permanently located as hereinafter provided, each to have so much of the remaining grant of one hundred and seventy thousand acres of land made by the United States for "other educational and charitable institutions" as is alloted by law, namely:

First. A soldiers' home, when located, or such other charitable institution as the legislative assembly may determine, at Lisbon, in the county of Ransom, with a grant of forty thousand acres of land.

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

Third. An industrial school and school for manual training, or such other educational or charitable institution as the legislative assembly may provide, at the town of Ellendale, in the county of Dickey; with a grant of forty thousand acres.

Fourth. A school of forestry, or such other institution as the legislative assembly may determine, at such place in one of the

counties of McHenry, Ward, Bottineau or Rolette as the electors of said counties may determine by an election for that purpose, to be held as provided by the legislative assembly.

Fifth. A scientific school, or such other educational or charitable institution as the legislative assembly may prescribe, at the city of Wahpeton, county of Richland, with a grant of forty thousand acres.

Sixth. A state normal school at the city of Minot, in the county of Ward; provided, that no other institution of a character similar to any one of those located by this article shall be established or maintained without a revision of this constitution.

Filed in the office of the secretary of state March 11, 1907.

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## CONCURRENT RESOLUTION.

[H. B. No. 169—Putnam]

For An Amendment to the Constitution of the State of North Dakota Providing for the Purchase of and Sale of School and Public Lands.

*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 agreed to and referred to the eleventh legislative assembly of the 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 section 158 of the constitution of the state of North Dakota be amended so as to read as follows:

§ 158. No land shall be sold for less than the appraised value and in no case for less than ten dollars per acre. The purchaser shall pay one-fifth of the price in cash and the remaining four-fifths as follows: One-fifth in five years, one-fifth on or before the expiration of ten years, one-fifth on or before the expiration of fifteen years, and one-fifth on or before the expiration of twenty years, with interest at the rate of not less than five per cent per annum payable annually in advance; provided, that when payments are made before due they shall be made at an interest paying date, and one year's interest in advance shall be paid on all moneys so paid. All sales shall be held at the county seat of the county in which the land to be sold is situated, and all be at public auction and to the highest bidder after sixty days' advertisement of the same in a newspaper in general circulation in the vicinity of the land to be sold, and also published in a newspaper published at the county seat and also in a newspaper published at the seat of government. Such lands as shall not have been especially sub-

divided shall be offered in tracts of one quarter section and those subdivided in the smallest subdivision. 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 such lands shall issue until payment is made for the same; provided, that the lands contracted to be sold by the state shall be subject to taxation from the date of such contract. In case the taxes assessed against any of said lands for any year remain unpaid until the first Monday in October of the following year, then and thereupon the contract of sale for such lands shall, if the board of university and school lands so determine, become null and void.

Any lands under the provisions of section 158 of the constitution of the state of North Dakota that have heretofore been sold may be paid for, except as to interest, as provided herein; provided, further, that any school or institution lands that may be required for townsite purposes may be paid for at any time and patent issued therefor.

Filed in the office of the secretary of state March 23, 1907.

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## CONCURRENT RESOLUTION.

[H. B. No. 325—Aaker]

For Amendment to the Constitution of the State of North Dakota, Relating to Revenue and Taxation.

*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 agreed to and referred to the eleventh legislative assembly of the 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 section 176 of the constitution of the state of North Dakota be amended so as to read as follows:

§ 176. Laws shall be passed taxing by uniform rule all property according to its true value in money, and the legislature may pass laws taxing incomes, but the property of the United States and the state, county and municipal corporations, both real and personal, shall be exempt from taxation, and the legislative assembly shall by a general law exempt from taxation property used exclusively for school, religious, fraternal, cemetery or charitable purposes, public hospitals under the control of religious or charitable societies, used wholly or in part for public charity, and personal property to any amount not exceeding in value two hundred dollars for each individual liable to taxation; but the legislative assembly may, by

law, provide for the payment of a per centum of gross earnings of railroad companies to be paid in lieu of all state, county township and school taxes on property exclusively used in and about the prosecution of the business of such companies as common carriers, but no real estate of said corporations shall be exempted from taxation in the same manner and on the same basis as other real estate is taxed, except road-bed, right-of-way, shops and buildings, used exclusively in the business as common carriers, and whenever, and so long as such law providing for the payment of a per centum on earnings shall be in force, that part of section 179 of this article relating to assessment of railroad property shall cease to be in force.

Filed in the office of the secretary of state March 23, 1907.

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## CONCURRENT RESOLUTION.

[S. B. No. 334]

Amending Section 162 of the Constitution of the State of North Dakota, Relating to the Investment of Permanent School Funds.

*Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring:*

That the following amendment to the constitution of the state of North Dakota adopted by the ninth legislative assembly of the state of North Dakota and by it referred to the tenth legislative assembly of said state for approval or rejection is hereby agreed to, and such amendment shall be submitted to the qualified electors of the state at the next general election for approval or rejection in accordance with the provisions of section 202 of the constitution of the state of North Dakota:

### AMENDMENT.

That section 162 of the constitution of the state of North Dakota be amended to read as follows:

§ 162. The moneys of the permanent school fund and other educational funds shall be invested only in bonds of school corporations or of counties, or of townships, or of municipalities within the state, bonds issued for the construction of drains under authority of law within the state, bonds of the United States, bonds of the state of North Dakota, bonds of other states; provided, such states have never repudiated any of their indebtedness, or on first mortgages on farm lands in this state, not exceeding in amount one-third of the actual value of any subdivision on which the same may be loaned, such value to be determined by the board of appraisal of school lands.

Filed in the office of the secretary of state March 23, 1907.

## CONCURRENT RESOLUTION.

[S. B. No. 302]

A CONCURRENT RESOLUTION Amending Section 158 of the Constitution of the State of North Dakota, Relating to the Sale of State Lands.

*Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring:*

That the following amendment to the constitution of the state of North Dakota adopted by the ninth legislative assembly of the state of North Dakota and by it referred to the tenth legislative assembly of said state for approval or rejection is hereby agreed to, and such amendment shall be submitted to the qualified electors of the state at the next general election for approval or rejection in accordance with the provision of section 202 of the constitution of the state of North Dakota:

### AMENDMENT.

That section 158 of the constitution of the state of North Dakota be amended to read as follows:

§ 158. Minimum price of state lands. No land shall be sold for less than the appraised value and in no case for less than ten dollars per acre. The purchaser shall pay one-fifth of the price in cash, and the remaining four-fifths as follows: One-fifth in five years, one-fifth in ten years, one-fifth in fifteen years and one-fifth in twenty years, with interest at the rate of not less than six per centum, payable annually in advance. All sales shall be held at the county seat of the county in which the land to be sold is situate, and shall be at public auction and to the highest bidder, after sixty days' advertisement of the same in a newspaper of general circulation in the vicinity of the lands to be sold, and one at the seat of government. Such lands as shall not have been specially subdivided shall be offered in tracts of one-quarter section, and those so subdivided in the smallest subdivisions. All lands designated for sale and not sold within two years after appraisal shall be re-appraised 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 date of such contract. In case the taxes assessed against any of said lands for any year remain unpaid until the first Monday in October of the following year, then and thereupon the contracts of sale for such lands shall, at the election of the board of university and school lands, become null and void; and no such contract heretofore made shall be held void for non-payment of taxes accruing on the lands described therein; provided, such taxes shall have been paid before this amendment takes effect; provided, further, that any school or institution lands that may be required for townsite purposes may be paid for at any time and patent issued therefor.

Filed in the office of the secretary of state March 23, 1907.

## CONCURRENT RESOLUTION.

[S. B. No. 255—Little]

Amending the Constitution of the State of North Dakota, Relating to the Number of Judges of the Supreme Court.

*Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring:*

That the following amendment to the constitution of the state of North Dakota, adopted by the ninth legislative assembly of the state of North Dakota and by it referred to the tenth legislative assembly of said state for approval or rejection, is hereby agreed to and such amendment shall be 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 section 89 of the constitution of the state of North Dakota be amended so as to read as follows:

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

Filed in the office of the secretary of state March 23, 1907.

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# MEASURES VETOED.

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## PURCHASING ROAD MACHINERY.

[H. B. No. 300—Rose]

AN ACT to Amend Section 3213 of the Revised Codes of the State of North Dakota of 1905, Relating to Townships Purchasing Road Machinery.

Vetoed March 22, 1907.

## APPOINTMENT OF BAILIFFS.

[H. B. No. 288—Treat]

AN ACT to Amend Section 434 of the Revised Codes of the State of North Dakota for 1905, Relating to the Appointment of Deputies and Bailiffs.

Vetoed March 22, 1907.

## APPELLATE PROCEDURE.

[S. B. No. 33—Purcell]

AN ACT to Regulate the Practice in Appellate Courts, as to the Review of Errors Committed by Trial Courts in Ruling Upon Demurrers to Pleadings.

Vetoed March 22, 1907.

## INDUSTRIAL SCHOOL.

[S. B. No. 159—Thatcher]

AN ACT Designed to Define the Powers and Increase the Ffficiency of the State Normal and Industrial School.
Vetoed March 23, 1907.

## OIL INSPECTION.

[H. B. No. 183—Burgum]

AN ACT to Amend Chapter 24 of the Laws of 1905, Being Sections 2213, 2215, 2218 and 2226, in Relation to Oil Inspection.
Vetoed March 22, 1907.

## CHANGING COUNTY LINES.

[S. B. No. 321—Simpson]

AN ACT Entitled an Act to Provide for Changing County Lines of Organized Counties to Include Unorganized Territory.
Vetoed March 22, 1907.

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