

LAWS

ENACTED BY THE

LEGISLATIVE ASSEMBLY

OF THE

STATE OF NORTH DAKOTA.

SPECIAL SESSION,

BEGINNING ON WEDNESDAY, THE FIRST DAY OF JUNE, A. D. 1892,
AND CONCLUDING FRIDAY, THE THIRD DAY OF
JUNE, A. D. 1892.

BISMARCK, N. D.:
TRIBUNE, STATE PRINTERS AND BINDERS.
1892.

AUTHENTICATION.

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

I hereby certify that the Laws printed herewith are true and correct copies of the original enrolled bills passed by the Legislative Assembly of the State of North Dakota at the Special Session thereof, beginning June 1, 1892, and terminating June 3, 1892, now on file in this office.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of North Dakota, this 14th day of June, A. D. 1892.

JOHN FLITTIE,
Secretary of State.

[SEAL.]

GENERAL ELECTIONS.

PRESIDENTIAL ELECTORS, AND STATE, DISTRICT AND COUNTY OFFICERS.

[H. B. No. 1, Special.]

AN ACT Providing for the Election of Presidential Electors, State, District and County Officers and the Manner of Calling and Giving Notice of the Same.

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

§ 1. GENERAL ELECTION, WHEN HELD.] On the first Tuesday after the first Monday in November of each even numbered year, an election shall be held in the several election districts of the State which shall be known as the general election, and the several State, District and County officers, judges of the Supreme and District courts, members of the Legislative Assembly and Representatives in Congress of the United States, shall be elected at the general election next preceding the expiration of the term of each of said officers, respectively, except such officers as are now required by law to be elected at special elections, and on a year when a President and a Vice-President of the United States are to be chosen, a number of electors of President and Vice-President of the United States equal to the number of Senators and Representatives to which this State is entitled in the Congress of the United States shall be elected at said election.

§ 2. NOTICE OF ELECTION, HOW GIVEN.] The Secretary of State shall, between the first days of July and September in such year, direct and cause to be delivered to the auditor of each county, a notice specifying all the State officers whose term of office will expire between the first Monday in December and the first Monday in January next succeeding, and specifying, also, the several officers to be chosen in such county, at the next general election. The auditor to whom such notice is delivered shall cause notice of the same to be given as provided in Sections 1444 and 1445 of the Compiled Laws of 1887.

§ 3. This act shall take effect and be in force from and after its passage and approval.

Approved June 3, 1892.

STATE BOARD OF CANVASSERS.

[S. B. No. 1, Special.]

AN ACT to Provide for a Board of State Canvassers.

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

§ 1. BOARD, HOW CONSTITUTED.] The Governor, Attorney General, Secretary of State, Auditor and Treasurer, shall constitute the Board of State Canvassers, three of whom shall be a quorum for the transaction of business, and if less than a quorum only of said officers attend on the day appointed for a meeting of the board, then those so attending are hereby authorized to summons others of the State officers sufficient to constitute a quorum, who, on being notified by the officer or officers so attending, shall attend without delay, and with him or them shall form the board.

§ 2. WHEN MEMBER DISQUALIFIED.] When a member of said board is a candidate for any office as to which the votes are to be canvassed by him, the Governor shall designate some other State officer who shall act in his stead at the session of the board while the votes given for such member are to be canvassed.

§ 3. COUNTY AUDITORS TO FORWARD ABSTRACT OF VOTES TO SECRETARY OF STATE.] It shall be the duty of the county auditor of each county of this State, under his official seal, to return to the Secretary of State, on or before the first Tuesday of December following any general election, and within thirty days following any special election, a certified abstract of the number of votes cast in his respective county at said election for every candidate for State and Congressional offices, and electors for President and Vice-President, judges of the Supreme court and District court, and the members of the Legislative Assembly, and for amendments to the Constitution or propositions submitted by the Legislative Assembly of North Dakota; *Provided*, The county auditors shall make a separate certified abstract of the votes cast for persons for electors for President and Vice-President of the United States. He shall seal up such separate abstract, endorse it Presidential elector returns, and without delay transmit it to the Secretary of State by registered mail.

§ 4. SECRETARY OF STATE TO FILE ABSTRACTS OF VOTES.] The Secretary of State, upon receipt of the certified abstracts of votes given in the several counties, directed to be sent to him by the county auditors, shall record the result of such election by counties, and shall file and carefully preserve the certified statements so by him received from the county auditors, and if no such statement shall be received by him from the county auditor of any county prior to the time specified for the meeting of said board of State canvassers, he may and it is hereby made his duty to dispatch a special messenger to obtain such statement from the

county auditor thereof, at the expense of said county, and such auditor shall immediately, on demand of such messenger, make and deliver to him the statement required, which the messenger shall deliver to the Secretary of State to be recorded and filed by him as aforesaid.

§ 5. MEETING OF STATE CANVASSING BOARD.] For the purpose of canvassing and ascertaining the result of such election, the State Board of Canvassers shall meet at the office of the Secretary of State on the second Tuesday of December next after a general election and within forty days after a special election, and the Secretary of State shall notify the other members of the board of the same.

§ 6. DUTY OF BOARD.] The board when thus formed shall examine such certified statements of the county canvassers, and if it shall appear that any material mistake has been made in the computation of votes given for any person, or that the county canvassers in any county have omitted to canvass the votes, or any part thereof cast at any poll in their county, the board may dispatch a messenger to the county auditor of such county, at the expense of said county, with their requirement in writing to him to certify the facts concerning such mistake and the reason why such votes were not canvassed; and the county auditor to whom any such requirement is delivered shall forthwith make a true and full answer thereto, under his hand and official seal, and deliver the same to such messenger, who shall deliver the same with all convenient dispatch to the Secretary of State.

§ 7. ADJOURNMENTS.] The said board may adjourn, as may be necessary, from day to day, not exceeding three days in all.

§ 8. PUBLIC CANVASS.] Upon the certified statements and returns so received, the board shall proceed to publicly examine and make a statement of the whole number of votes given at any such election for each and all State officers; and another statement of the votes given for Representatives in Congress in each congressional district, each of which statements shall show the names of the persons to whom such vote shall have been given for either of said offices, and the whole number of votes given to each, distinguishing the several districts and counties in which they are given.

§ 9. CERTIFICATE OF RESULT.] They shall certify such statements to be correct and subscribe their names thereto, and they shall thereupon determine what persons have been, by the greatest number of votes, duly elected to such offices, or either of them, and shall make out and subscribe on each statement a certificate of such determination, and deliver the same to the Secretary of State.

§ 10. SECRETARY OF STATE TO ISSUE CERTIFICATES OF ELECTION.] The Secretary of State shall record in his office each certified statement and determination so made by said board, and

shall forthwith make out and transmit to each of the persons thereby declared to be elected a certificate of election as hereinafter provided, and he shall also forthwith cause a copy of such certified statement and determinations to be published in a newspaper printed at the seat of government.

§ 11. CERTIFICATE OF REPRESENTATIVE IN CONGRESS.] The certificate of the election of a Representative in Congress shall be signed by the Governor with the seal of the State affixed, and be countersigned by the Secretary of State, and the Governor shall cause it to be delivered to the person elected.

§ 12. PRESIDENTIAL ELECTORS.] The board shall proceed in examining and making a statement of the votes, and in determining and certifying the persons chosen as Electors of President and Vice-President in the manner prescribed by law, to be pursued by them in the canvass for State officers, and the Secretary of the State shall likewise file and record such statement and the determination. In canvassing the returns for Presidential Electors, the persons having the greatest number of votes are to be declared elected; and if more than the requisite number of persons are found to have the greatest and an equal number of votes, the election of one of them shall be determined by lot, to be drawn by the Governor in the presence of the other canvassers. The Secretary of State shall prepare three lists of the names of such Electors elected at any election, procure thereto the signature of the Governor, and affix the seal of the State to the same, and deliver such certificates thus signed and sealed to said Electors on or before the second Monday in January next after such election.

§ 13. FORM OF CERTIFICATE.] A certificate shall be prepared by the Secretary of State for each person elected, in substance as follows:

At an election holden on the....day of.....A. B. was elected to the office of.....of said State for the term of....years from the....day of.....in the year....or, if to fill a vacancy, say for the residue of the term ending on the....day of.....A. D. 18..

Given at Bismarck this....day of.....A. D. 18..

Which certificate shall be signed by the Governor and the Secretary of State, and the seal of the State affixed, and be attested by at least one of the other canvassers.

§ 14. CONSTITUTIONAL AMENDMENTS, ETC.] For the purpose of canvassing and ascertaining the result of the votes taken at any election upon any proposed amendment to the Constitution or proposition submitted to a vote of the people by the Legislative Assembly, the State Board of Canvassers shall proceed to examine such statements, and to ascertain and determine the result and shall certify under their hands a statement of the whole number of votes given for, and the whole number of votes given against such amendment or proposition, and they shall thereupon determine whether such amendment or proposition has been approved and

ratified by a majority of the electors voting thereon, and shall make and subscribe on such statement a certificate of such determination.

§ 15. RECORD OF RESULT.] The Secretary of State shall record in his office such certified statements and determination; and if it shall appear that such amendment or proposition has been approved, ratified or adopted as aforesaid, he shall also make a record thereof, and cause such record to be bound in the volume containing the original enrolled law passed at the next succeeding session of the Legislative Assembly, and cause such record to be published with such laws.

§ 16. WHAT RETURNS SHALL BE CANVASSED.] The Board of State Canvassers, in canvassing to ascertain the result of any election, shall canvass only the regular returns made by the county board of canvassers, as provided in this act.

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

Approved June 3, 1892.

DETERMINATION OF CONTESTS IN ELECTION OF PRESIDENTIAL ELECTORS.

[S. B. No. 2, Special.]

AN ACT for the Final Determination of Contests Concerning the Election of Electors of President and Vice-President of the United States.

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

§ 1. PROCLAMATION OF RESULT OF CANVASS OF VOTE.] The Governor shall, within ten days after the completion of the canvass by the State Board of Canvassers of the votes cast for Presidential Electors, as certified by the auditors of the respective counties in the State, declare by proclamation to be printed in some newspaper printed and published at the seat of government, the names of the several persons who have received not less than one-fifth of all the votes cast, and the number of votes received by each person, and the several persons who have received the highest number of votes so returned, and whose election shall not have been contested and notice of such contest given to the Governor within ten days after the date of such proclamation, shall be deemed and taken to be elected, and the Governor shall thereupon transmit to each person so chosen a certificate of his election.

§ 2. CONTEST COURT, HOW CONSTITUTED.] The court for the trial of the contested elections for Presidential Electors shall consist of the Chief Justice of the Supreme Court, who shall be

presiding judge of the court, and the two judges of the district court, not interested, being nearest the capital of the State. If the Chief Justice should, for any cause, be unable to attend at the trial, the next senior judge, or the one longest on the supreme bench, shall preside in place of the Chief Justice, and any question arising as to the membership of the court shall be determined by the members of the court not interested in the question. The Secretary of State shall be the clerk of the court, or, in his absence or inability to act, the clerk of the Supreme Court shall be the clerk. Each member of the court before entering upon the discharge of his duties, shall take an oath before the Secretary of State, or some officer qualified to administer oaths, that he will support the Constitution of the United States and that of the State of North Dakota, and that without fear, favor, affection or hope of reward, he will, to the best of his knowledge and ability, administer justice according to law and the facts in the case.

§ 3. CONTESTANT MAY APPLY TO COURT.] Any person who by the proclamation of the Governor, as hereinbefore provided, appears to have received not less than one-fifth of the votes cast in an election for Electors of President and Vice-President of the United States may apply to the court provided for in this act for a declaration of his election as elector.

§ 4. APPLICATION TO STATE GROUNDS OF CONTEST.] Such application shall be made by petition in writing to be filed with the clerk of said court, within ten days from the date of the proclamation provided for in Section 1 of this act, who shall forthwith convene the court. The petition shall set forth the names of the person or persons whose election is contested and the grounds for such contest. The petitioner shall upon filing such petition and before any proceedings are had thereon, file a bond to the State in such sum and with such sureties as the court shall order, to pay all costs incurred in the prosecution of such petition, in case he shall not prevail in the same.

§ 5. NOTICE TO PARTY CONTESTED, HOW GIVEN.] Upon the filing of said petition and the giving of the said bond the said court shall order due notice of the petition to be given, in such manner as it may direct, to the Governor of the State and to the person or persons whose elections are contested, said notice to be published in such newspaper as the court shall order. Such notice shall contain a concise statement of the substance of the petition and shall designate the day fixed by the court for the hearing of the same, which day shall be not less than three nor more than seven days from the filing of the petition.

§ 6. APPEARANCE.] At the day fixed for the hearing the petitioner shall appear and produce his evidence and the person or persons whose election is contested may appear and produce evidence on their part. Either party may appear himself or by his

authorized agent or attorney, and no other person shall be entitled to be made a party to the proceedings on such petition or to be heard personally or by counsel thereon; *Provided*, That if more than one petition be pending or more than one election be contested, the court may order the cases to be heard together or apart as in its judgment may seem best.

§ 7. MANNER OF CONDUCTING HEARING.] The court shall thereupon hear the case or cases and finally determine all questions of law or fact involved. The burden of proof in every case shall be upon the petitioner and the hearing shall be confined to the grounds stated in the petition, which shall not be amended after it has been filed. No *ex-parte* affidavit shall be competent evidence in such hearing. No person shall be excused from testifying or producing papers or documents on the grounds that such testimony or production will tend to criminate himself; *Provided*, That no person so testifying shall be liable to any suit or prosecution, civil or criminal, for any matters or causes in respect of which he shall be so examined or to which his testimony shall relate. The court shall have the same powers to compel the attendance of witnesses as the district courts of this State in civil and criminal actions, and nothing in this act contained shall be held to limit the power of the court to make such regulations as to the conduct of the proceedings as it may deem proper, not inconsistent with the provisions of this act, and the court shall have all powers necessary to the complete carrying out and performance of the authority conferred upon it by this act.

§ 8. ADJUDICATION, HOW CERTIFIED.] The court shall adjudge in each case which of the parties to the proceedings is entitled to the office of Elector, and shall cause such adjudication to be entered of record in such form and manner as it shall direct, and shall forthwith certify such adjudication to the Governor and Secretary of State, and such adjudication so certified shall be final and conclusive that the person therein stated to have been elected is duly elected, and the Governor shall forthwith transmit to such person a certificate of his election, and every such certificate shall recite that it is issued pursuant to an adjudication under this act referring to this act, by the date of its passage and approval. The court shall so arrange for and conduct the trial of such contest or contests that a final determination of the same and judgment thereon shall be rendered at least six days before the second Monday in January then next following.

§ 9. WHEN PETITIONER BARRED FROM ACTION.] If any petitioner shall fail to appear and prosecute his petition against any person who has been made a respondent thereto according to the requirements of this act and of such rules as the court shall make, the court shall adjudge that he has so failed, and shall cause such adjudication to be entered of record in such form and manner as it shall direct, and shall forthwith certify such adjudi-

cation to the Governor and Secretary of State; and the same shall be a final and conclusive bar to the claim of the petitioner against such respondent as fully and completely as if such claim had been heard and determined on its merits, and the Governor shall issue his certificate as provided in the preceding section.

§ 10. TAXATION OF COSTS.] The costs of all proceedings under this act shall be taxed under the direction of the court, and if more than one case is heard together, the costs shall be apportioned under the same direction, and in every case in which the petitioner shall not finally prevail, the costs shall be paid by him, and in every case in which the petitioner shall finally prevail, the costs shall be borne by the State, and the same shall be paid out of the treasury of the State. The court shall certify the costs to the State Auditor, who shall issue his warrant upon the State treasury in payment of the same.

§ 11. FINAL HEARING, HOW DETERMINED.] The final hearing and determination under this act shall be by a majority of the judges of the court, but any single judge may exercise any other of the powers given to the court by this act.

§ 12. TIME, HOW RECKONED.] All periods of time mentioned in this act shall be reckoned exclusive of the day from which they begin to run and inclusive of their last day, and Sundays and holidays shall be included.

§ 13. MILEAGE AND PER DIEM.] The judges shall be entitled to receive for their travel and attendance the sum of six (6) dollars each per day, with such mileage as is allowed to members of the Legislative Assembly, to be paid from the State treasury upon the warrant of the State Auditor.

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

Approved June 3, 1892.

PER DIEM AND MILEAGE OF PRESIDENTIAL ELECTORS.

[H. B. No. 5, Special.]

AN ACT Fixing the Compensation and Mileage of Electors of President and Vice-President of the United States.

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

§ 1. PER DIEM AND MILEAGE.] The Electors of President and Vice-President of the United States shall receive the same per diem and mileage as is allowed to members of the Legislative Assembly.

Approved June 3, 1892.

APPROPRIATION FOR PAY OF PRESIDENTIAL ELECTORS.

[H. B. No. 6, Special.]

AN ACT Making an Appropriation for the Pay and Mileage of Electors of President and Vice-President of the United States.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of the State Treasury, as a standing and continuing appropriation, such a sum of money as may be necessary to pay the per diem and mileage of the Electors of President and Vice-President of the United States.

Approved June 3, 1892.

WORLD'S FAIR.

APPROPRIATION FOR STATE BUILDING.

[S. B. No. 3, Special.]

AN ACT to Make an Appropriation for the Erection of a State Building for the State of North Dakota at the World's Columbian Exposition of 1893.

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

§ 1. APPROPRIATION.] There is hereby appropriated the sum of \$12,500 out of any money in the State treasury not otherwise appropriated, to be used for the erection of a building for the State of North Dakota at the World's Columbian Exposition of 1893.

§ 2. MONEY, HOW DRAWN.] The State Auditor is hereby directed to draw his warrant for said sum upon the State Treasurer, from time to time, on the requisition of the Board of World's Fair Managers, signed by its president and secretary, and approved by the Governor, and accompanied by estimates of the expenditures, to the payment of which the money so drawn is to be applied; *Provided, however,* That a statement shall be furnished by said board, and filed with said Auditor immediately upon the final disbursement of the money so drawn, which statement shall be itemized and have attached thereto vouchers for each item.

§ 3. BOND OF EXECUTIVE MANAGER.] It is hereby made the duty of the Executive Manager of said board to execute to the

State of North Dakota a bond with good and sufficient sureties in the penal sum of \$10,000, to be approved by the Governor and filed with the Secretary of State, conditioned for the faithful performance of his duties, and the payment to the State Treasurer of all moneys which may be collected by him as such Executive Manager, and the proper disbursement of and accounting for all moneys which may pass through his hands as such officer.

Approved June 3, 1892.

RAILROAD PLATFORMS.

AMENDMENT TO LAW OF 1890.

[H. B. No. 2, Special.]

AN ACT to Amend Sections One (1) and Two (2) of Chapter 123 of the Laws of 1890.

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

§ 1. That Section one (1) of Chapter 123 of the Laws of 1890, be and the same is hereby amended to read as follows:

Sec. 1. RAILROADS TO BUILD PLATFORMS--PENALTY--DUTY OF RAILROAD COMMISSIONERS.] Every railroad company or corporation doing business in this State shall within sixty days after notice from the Commissioners of Railroads, build, erect and complete one or more platforms for the transfer of live stock, grain and other commodities, from wagons or otherwise, to cars at each and every station designated in said notice; said platforms to be erected where there will be safety to life and property. If any railroad company after receiving notice as provided for in this section shall fail, refuse or neglect to build and erect said platforms as required by this act, within the required sixty days, the Commissioners of Railroads are hereby authorized and empowered, and it is made their duty, to notify such railroad company to appear before them at a certain time and place to show cause, if any there be, why said commissioners should not issue an order requiring such railroad company to comply with the requirements of this act. Said Commissioners of Railroads shall have power after such hearing, to issue an order upon said railroad company, commanding them to build and erect such platform as contemplated by this act; providing said Commissioners of Railroads shall upon such examination and hearing, deem such platform or platforms necessary.

§ 2. That Section two (2) of Chapter 123 of the Laws of 1890 be and the same is hereby amended to read as follows:

Sec. 2. PLATFORMS—SPECIFICATIONS.] Each platform shall be not less than twelve feet wide and thirty-two feet long, extending four feet and six inches, or such height as shall be determined by the Board of Railroad Commissioners, above the rails of the track, with suitable approaches to and from said platforms to admit the driving of loaded teams thereon.

Approved June 3, 1892.