

# SCHOOL LANDS.

## CHAPTER 118.

[S. B. No. 73.]

### SCHOOL AND PUBLIC LANDS.

AN ACT to Amend All of Chapters 25, 146, 147 and 148 of the Laws of 1890, and Chapter 65 of the Laws of 1891, and to Provide for the Management, Control and Disposal of University, School and All Other Public Lands of the State and the Management of the Funds Arising Therefrom and Making an Appropriation Therefor.

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

§ 1. AMENDMENT.] That Chapter 25 of the General Laws of 1890, "An Act Providing for the Organization of, and Fixing and Defining the Powers and Duties of the Board of University and School Lands and Making an Appropriation Therefor," approved March 20, 1890; Chapter 146 of the General Laws of 1890, "An Act to Provide for the Leasing and Sale of the Common School Lands of North Dakota," approved January 10, 1890; Chapter 147 of the General Laws of 1890, "An Act to Amend Section 14 of an Act Entitled 'An Act to Provide for Leasing and Sale of the Common School Lands of North Dakota,'" approved March 20, 1890, and Chapter 65 of the Laws of 1891, "An Act to Amend Sections 2, 5, 6 and 11 of Chapter 146 of the General Laws of 1890, entitled 'An Act to Provide for the Leasing and Sale of the Common School Lands of North Dakota,'" approved March 7, 1891, and Chapter 148 of the General Laws of 1890, "An Act to Prevent the Trespassing Upon School and Public Lands, and to Recover Damages Therefor," approved January 13, 1890, be amended to read as follows:

§ 2. BOARD—HOW CONSTITUTED.] The Governor, Secretary of State, Attorney General, State Auditor and Superintendent of Public Instruction, shall constitute the Board of University and School Lands. The Governor shall be *ex-officio* president of such board; the Secretary of State *ex-officio* vice-president, and the Superintendent of Public Instruction shall be *ex-officio* secretary thereof. In the absence of the Superintendent of Public Instruction at any meeting of the board the Deputy Superintendent of Public Instruction shall act as secretary thereof, but shall not be entitled to a vote. Such board, when acting as such, must act personally; no member thereof can be represented in such board by any assistant or clerk in the office of which such member is the chief officer.

§ 3. AUTHORITY.] Subject to the provisions of Article 9 of the Constitution and the provisions of this act, such board shall have full control of the selecting, appraisement, sale, rental, disposal and management of all school and public lands of the State, and the investment of the permanent funds derived from the sale thereof, or from any other source, and shall have power to appoint a competent person to act as the general agent of the board in the performance of all their duties pertaining to the selection, sale, lease, contracting in any manner allowed by law, and the general management and control of all matters relative to the care and disposition of the public lands of the State, all of whose acts at all times shall be subject to the approval and supervision of the board, and whose term of office shall at all times be subject to their immediate control. The title of such agent shall be that of Commissioner of University and School Lands, and before entering upon his duties as such shall take the oath of civil officers and give a bond in the penal sum of ten thousand dollars (\$10,000), with not less than two sureties, to be approved by the board; said bond to be recorded in the office of the Secretary of State and filed, when recorded, in the office of the State Auditor.

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

§ 5. AUTHORITY TO INVEST FUNDS DERIVED FROM SALE OF SCHOOL AND OTHER LANDS—HOW MADE.] Said Board of University and School Lands shall have the power and it is hereby made their duty from time to time to invest any money belonging to any of the permanent funds of the common schools, University, School of Mines, Reform School, Agricultural College and Deaf and Dumb Asylum, Normal School, and all other permanent funds derived from the sale of public lands or from any other source, in bonds of school corporations within the State, bonds of the United States, bonds of the State of North Dakota, or in first mortgages on farm lands in the State not exceeding in amount one-third of the actual value of any subdivision on which the same may be loaned, such value to be determined by the county board of appraisal of the respective counties, but said board shall not purchase or approve the purchase of any bond 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 sale of certain bonds or mortgages is to be considered at that meeting, nor unless a majority of all the members of said board vote in favor of such

purchase, and the vote on the purchase of every bond and mortgage shall be taken by yeas and nays and shall be duly recorded on the books of the board.

§ 6. RECORDS—SECRETARY'S DUTIES PERTAINING THERETO.] The secretary of said board shall keep in a suitable book for that purpose, a full and correct record of all meetings at every session of the board, which record when approved shall be signed by the president or the presiding officer of the meeting, and the secretary; he shall also keep such other books as may be necessary to properly register and describe all bonds and mortgages offered to them, and all bonds and mortgages bought or taken by them for the benefit of any of the permanent funds under their control. Such record books shall be ruled so as to enable the board to register the name and residence of the person offering to sell any such bond or bonds or mortgages—and name and residence or location, or district for whom such offer is made, and a full and detailed description of every bond, whether United States, State or school district, and the date, number, series, amount and rate of interest of each bond, and when the interest and principal, respectively, are payable; and such record shall be made of every such bond and mortgage before the board shall act upon the question of purchasing the same. He shall also keep in suitable books a record showing a detailed statement of the condition of all the permanent funds under control of said board, the amount of each fund, how invested, when due, interest paid, and any other act in any manner connected with the management of said funds, and shall biennially report all such investments to the Governor, to be laid before the Legislative Assembly. All the records and record books of such board shall at all times be open for the inspection of the public.

§ 7. STATE TREASURER—CUSTODIAN OF FUNDS.] All moneys belonging to the permanent funds of the common school and other public institutions derived from the sale of any of the public lands, or from any other source, shall be paid to and held by the State Treasurer, and be subject to the order of the Board of University and School Lands, and shall be paid over to the order of said board for investment as provided in Section 5 of this act, whenever said board requires the same for such investment. The State Treasurer shall also be the custodian of all bonds, notes, mortgages and evidences of debt arising out of the management of the permanent funds derived from the sale of any of the public lands of the State or from any other source.

§ 8. STATE TREASURER TO COLLECT MONEYS DUE FROM INVESTED FUNDS.] It shall be the duty of the State Treasurer, from time to time, as the same become due, to collect all moneys due and owing on any and all of the securities held by him for investment of the permanent funds, and from time to time, whenever required by the Board of University and School Lands, make report of amount of such collections to said board and a duplicate

of the same to the State Auditor. If any such moneys shall remain unpaid for thirty days after the same shall become due and payable, he shall make report in detail of all such unpaid amounts to the Attorney General, whose duty it shall be to proceed to collect the same by civil action, to be brought and prosecuted in the name of the State.

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

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

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

§ 12. TERM OF OFFICE OF COMMISSIONER OF UNIVERSITY AND SCHOOL LANDS.] The first term of office of the commissioner provided for in this act, shall be for three years from the date of his appointment or until his successor shall be appointed and qualified, and after the expiration of the first term, all succeeding terms shall be for two years. In case of vacancy by death, removal, resignation or any other cause, the Board of University and School Lands shall fill the same by appointment.

§ 13. SALARY AND EXPENSES OF COMMISSIONER'S OFFICE.] For the services required under this act, the commissioner shall receive an annual salary of two thousand (2,000) dollars, which sum shall be paid by the State Treasurer in the same manner as other salaries and expenses of State officers are paid.

§ 14. DEPUTY COMMISSIONER.] By and with the consent of the Board of University and School Lands, the commissioner may appoint a chief clerk of the office, who, before entering 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 (5,000) dollars for the faithful discharge of his duties, said oath of office and bond to be recorded and filed same as all other bonds and oaths of office of State officers.

§ 15. DUTIES OF COMMISSIONER.] The commissioner under such directions as may be given by the Board of University and



School Lands shall have general charge and supervision of all lands belonging to the State, of all lands in which the State has an interest or which are held in trust by the State. He shall have the custody of all maps, books and papers relating to any of the public lands mentioned in this act. He shall procure the proper books, maps and plats in which to keep complete records of all lands owned or held in trust by the State for schools, public buildings, and for all other purposes, and shall keep true record of all the sales, leases, permits, patents, deeds and other conveyances of such lands made by the State; amount of money paid, date of sale and payment, description of land sold or leased, number of acres thereof, name of purchaser and designation of the fund that should be credited therewith. He shall direct all appraisements, sales, leases, shall execute all contracts of sale, leases, permits or other evidences of disposal of the lands, subject to approval by the board. Upon all contracts, leases or permits issued by the commissioner he shall certify the book and page where the sale is recorded. He shall have an official seal, with a proper device thereon; and the seal of the commissioner affixed to any contract of purchase, receipts or other instruments issued by him, duly countersigned by him as approved by the Board of University and School Lands, according to the provisions of this act, is *prima facie* evidence of the due execution of such contract or other paper. He shall biennially make a report to the Legislative Assembly through the Board of University and School Lands of his work during the preceding term, showing the quantity of land sold or leased, and the amount received therefor, the amount of interest moneys received to the credit of the several funds, expense of administration of his department and all such other matters relating to his office as may be necessary to communicate.

§ 16. APPRAISED FOR SALE.] The superintendent of schools, the chairman of the county board of commissioners and the county auditor of each county shall constitute the "county board of appraisal" of the public lands of the State in and for their respective counties. The county board of appraisal in each county shall upon request of the Board of University and School Lands, designate on or before such date as he [they] may specify, the public lands of the State in their respective counties, that in their judgment can be sold for ten dollars an acre or upwards on the terms prescribed in this act, designating the tracts separately and giving an approximate estimate of their selling value. Thereupon the commissioner shall, if so ordered by the Board of University and School Lands, prepare a list and order an appraisal of such lands as shall be designated in said list, and it is made the duty of said board of county appraisers to proceed within ten days after the receipt of said list to examine such lands and appraise them at their cash value, as near as can be determined, describing each tract or subdivision in parcels not greater than 160 acres, more or less, according to the government survey, and in smaller subdivi-

sions thereof if so listed by the commissioners, and they shall set opposite each described tract or parcel of land their appraised value per acre thereof; and when said list is completed, which shall not be later than thirty days after the receipt of said order, the county board of appraisal, or the members of the same who made such appraisement, shall certify to its correctness, and make duplicate copies, one of which shall be forwarded immediately to the Board of University and School Lands, and the other to be filed in the office of the county auditor for reference. And in addition to the appraisal of such lands the county board of appraisal shall furnish such other information regarding the lands as may be required by the commissioner in the manner and form prescribed by him. The report of such appraisal shall be verified by each of such appraisers and shall disclose any interest, real and contingent, that he or they have in any of the lands or improvements so appraised. Any appraiser who wilfully makes any false statement in such report, relative to such interest in any of the lands so appraised, or improvements thereon, shall be deemed guilty of perjury. For all services performed under the requirements of this act, the appraisers shall be paid at the rate of \$3.00 per day and actual traveling expenses, upon vouchers approved by the secretary of the Board of University and School Lands, the same to be paid by the State Treasurer, upon warrants issued by the State Auditor.

§ 17. SELECTING FOR SALE.] The commissioner shall, from the list of lands so appraised and reported by the county board of appraisal, select all such tracts as have been appraised at \$10 per acre and upwards, and upon approval of said selections by the Board of University and School Lands, shall make up and certify to the county auditors the list of lands in their respective counties that are offered for sale, and when transmitting such list shall designate the day and hour for the sale thereof; *Provided*, That said sales shall take place only between the hours of 10 o'clock a. m. and 5 o'clock p. m., to be continued from day to day until all the lands advertised for sale shall have been sold or offered for sale, except that adjournments may be made for any intervening Sunday or legal holiday.

§ 18. ADVERTISEMENT OF SALE.] The county auditor shall, immediately on receipt of the list of lands mentioned in preceding section, cause to be published in a paper designated by the county board of appraisal, as prescribed by Section 158 of the Constitution, a notice of said sale, with the list of lands properly described, that are to be offered for sale, together with the appraised value thereof, and the terms and conditions of sale. The Board of University and School Lands shall also publish notices of all sales, for the same length of time, in one newspaper published at the seat of government of North Dakota.

§ 19. MANNER OF SALE.] On the day and hour appointed for said sale, the commissioner, except as hereinafter provided, shall

proceed to sell or offer for sale at public auction to the highest bidder, at the court house or at the place where the terms of the district court are held, which place of sale shall be the county seat of the county where the lands are situated, the lands so advertised, offering them for sale and selling in the order in which they occur in the advertisement for sale. Such lands as have not been specially subdivided shall be offered in tracts of one quarter section, according to the subdivisions thereof by the United States survey, and those so subdivided in the smallest divisions thereof. No tract shall be sold for less than its appraised value, and in no case for less than ten (10) dollars an acre; *Provided*, That where the commissioner cannot attend the sale in person, it can be made by the deputy land commissioner or any other person designated and authorized by the Board of University and School Lands.

§ 20. TERMS OF SALE.] Each tract of land shall be sold upon the following terms, to-wit: The purchaser shall pay one-fifth of the price in cash at the time of sale, and the remaining four-fifths as follows: One-fifth in five years, one-fifth in ten years, and one-fifth in fifteen years and one-fifth in twenty years, with interest at six per cent. per annum on all the unpaid principal, annually in advance. The highest bidder for any offered tract shall be declared the purchaser thereof and shall immediately pay over to the county treasurer the amount of one-fifth of the purchase price as specified in the terms of sale. In case the purchaser fails to pay the amount so required to be paid at the time of said sale, said commissioner, or whoever may be conducting the sale, shall immediately re-offer said land for sale, but no bid shall be received from the person so failing to pay as aforesaid; and the person refusing to or neglecting to make such payment shall forfeit the sum of one hundred (100) dollars for each tract so by him purchased, to be recovered by suit instituted by the Attorney General in the name of the State of North Dakota.

§ 21. ADJOURNMENT OF SALE.] No adjournment of sale can be made after its opening, except as provided in Section 17 of this act, but when the interest of the State will be subserved thereby, the Board of University and School Lands may at any time not less than two weeks preceding the date fixed for opening said sale, make an order postponing the same to such date as may be fixed in such order, which shall not be more than sixty days, giving due notice of the same to the county auditor, who shall publish said notice of adjournment and the day fixed for same, for two successive weeks in the same papers in which notice of sale is published; but the adjournment of any sale shall not require continued publication of the list of lands beyond the time specified in this act for such publication.

§ 22. WITHDRAWN LANDS.] The Board of University and School Lands may, in its discretion, on or before the day of sale, withdraw any or all lands that may have been advertised for sale

or included in any list to be offered in any county, and upon such withdrawal shall notify the auditor of said county, specifying the lands included in such notice of withdrawal, who shall thereupon strike such lands from the lists in his office, and public notice of the withdrawal shall be given at the day of sale before any lands are offered.

§ 23. CLERK OF SALE AND APPROVAL OF SALE.] The county auditor shall act as clerk of all land sales and leases made in his county, and it shall be his duty within five days after such sale or lease shall have been concluded to certify to the Board of University and School Lands a list of lands sold or leased as provided in this act, with the price thereof and the name of the purchaser or lessee of such tract, the amount for which the lands were sold or leased, the amount of money paid by such purchaser, and the amount of principal remaining unpaid, and the Board of University and School Lands shall approve and confirm the sale or lease of every such tract as, upon examination of such certified lists and such further information and investigation as shall be deemed necessary, shall be found to have been sold or leased in accordance with the law and without fraud or collusion. For the services imposed by this act the county auditor shall be allowed the sum of three dollars per day for each and every day so engaged, to be paid out of any appropriation for the expenses of appraisal and sale of public lands.

§ 24. NOTIFICATION OF PURCHASERS, AND EXECUTION OF CONTRACTS OF SALE.] Immediately upon approval of sales by the Board of University and School Lands, the secretary of said board shall prepare and certify a list of said approved sales to the commissioner, who shall without delay execute duplicate contracts in the form prescribed by the board and forward the same to the county auditor of the respective counties where the land was sold, whereupon it is made the duty of the county auditor to notify said purchaser by writing of the approval of the sales to them and to appear within ten days after date of notification and pay the county treasurer the amount of interest on the deferred payments as specified in the contract and execute the contracts of sale, and a failure to so appear and execute said contract shall act as a forfeit of the payment made by the purchaser at the day of sale. When the contracts are properly executed by the purchaser and the amount of money due thereon shall have been paid to the county treasurer the copy marked duplicate shall be delivered to him and the original returned to the land commissioner, and each contract so returned fully executed, shall have on its face in the place noted for such purpose the notation of date of delivery to the purchaser, and all contracts not executed by the purchaser, shall be returned to the land commissioner with a written statement thereon of the reason for such return.

§ 25. VOID SALES.] In case of any sale made by mistake, or not in accordance with the law, or obtained by fraud, the same



shall be void, and the contract of purchase issued thereon shall be of no effect; but the holder of said contract shall be required to surrender the same to the Board of University and School Lands, who shall, except in case of fraud on the part of the purchaser, cause the money to be refunded to the holder thereof.

§ 26. SURVEYS.] Whenever it appears to the Board of University and School Lands necessary, in order to ascertain the true boundaries of any tracts or portion of lands mentioned in this title, or to enable the commissioner to describe or dispose of the same in suitable and convenient lots, it may order all such necessary surveys to be made and the expenses shall be paid out of the State treasury as other incidental expenses of the Board of University and School Lands are paid.

§ 27. SUBDIVISION INTO SMALL TRACTS OR INTO TOWN LOTS—WHEN TO BE MADE.] Whenever in the opinion of the Board of University and School Lands the interests of the State will be promoted by laying off any portion of the land under his control into tract or tracts, small parcels or into village lots, the board may order said commissioner to cause the same to be done, and have the same appraised in the same manner as provided for the appraisal of the public lands.

§ 28. SALE OF—NEW APPRAISAL.] All parcels or lots so appraised shall be subject to sale in the same manner, and upon the same terms and conditions, and the contract of purchase shall have the same effect, as in the case of other lands for which provision is made in this act, and at the prices at which the same were severally appraised, until a new appraisal is made, which the Board of University and School Lands may in its discretion order at any time, in the manner aforesaid, and with the like effect; but no lots or parcels so appraised shall be sold for less than the minimum price of said lands, established in this act.

§ 29. MAP OF.] Whenever the commissioner shall lay off any tract of land into small parcels or village lots, as provided in this act, he shall cause a correct map of the same to be entered of record in the county where said lands are situated.

§ 30. EFFECT OF CONTRACT.] Contracts of purchase, issued pursuant to the provisions of law, entitle the purchaser to the possession of the lands therein described, and are sufficient evidence of title to enable the purchaser, his heirs or assigns, to maintain action for injuries done to the same, or any action or proceeding to recover possession thereof, unless such contract has become void by forfeiture; and all contracts of purchase in force may be recorded in the same manner that deeds of conveyance are authorized to be recorded.

§ 31. ASSIGNEES OF PURCHASERS.] The legal assignees of all *bona fide* purchasers of any of the lands mentioned in this act, are subject to and governed by the provisions of law applicable to the respective purchasers of whom they are assignees; and they shall have the same rights in all respects as original purchasers of the same class of lands.

§ 32. NEW CONTRACTS.] That whenever the holder of any contract of purchase of any State or school lands shall surrender the same to the commissioner with a request to have the same divided into two or more contracts, it shall be lawful for said commissioner to issue the same; *Provided*, That the proposed subdivision shall be only in the smallest of the regular government or State subdivisions; and, *Provided*, That no new contracts shall issue while there is due and unpaid any interest, principal or taxes on the principal contract of sale, nor in any case where the said commissioner shall be of the opinion after an examination of the lands, if necessary, that the security of [the] State would be impaired and endangered by the proposed division, nor until such proposed change shall have the approval of the Board of University and School Lands, and for all such new certificates a fee of ten (10) dollars for each certificate so issued shall be paid by the applicant for said certificate, 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:

§ 33. CONTRACTS OF SALE VOID ON FAILURE TO PAY INTEREST, PRINCIPAL OR TAXES.] In case of the non-payment of the annual interest due on the 1st day of January in each and every year, or within six days thereafter, by the purchaser or by any person claiming under him, then the said contract shall, from the time of such failure, be utterly void. In case of the non-payment of any principal sum on the purchase price on or within six days after the same may become due as required by the contract of sale, then the said contract, from the time of such failure, shall be utterly void. And in case any of the taxes assessed against the lands described in any contract of sale for any year as provided for in this act, shall remain unpaid on the first Monday of October of the following year, or within six days thereafter, then and thereon the said contract shall be utterly void. And in all cases where any contract becomes void by reason of failure to make payments required by the contract and the terms of this section, it shall be the duty of the Board of University and School Lands to declare said contract of sale void and notify the holder thereof of such declaration by written notice to his postoffice address, and a duplicate copy thereof sent to the auditor of the county in which said land is situated, and to order the commissioner to take possession of the land described in such contract.

§ 34. REDEMPTION BEFORE SALE.] In all cases where the rights of a purchaser have become forfeited under the provisions of this act, by failing to pay the amounts required, said purchaser, his heirs or assigns, shall, before the re-sale at public auction of the lands described in such contracts, pay to the State Treasurer the amount of interest due and payable on such contract, and all costs which have been incurred in addition thereto, together with the interest at the rate of 12 per cent. per annum on the interest and cost so due from date of delinquency to date of payment; such

payment shall operate as a redemption of the rights of such purchaser, his heirs or assigns, and said contract from the time of such payment, shall be in full force and effect, as if no such forfeiture had occurred.

§ 35. FEE IN STATE UNTIL FULL COMPLETION OF TERMS OF CONTRACT OF PURCHASE.] The fee of each parcel of said lands shall be and remain in the State until the patents hereinafter provided for are issued for the same respectively, and no patent shall issue until full payment of all sums and full compliance with all the conditions of the contract of purchase, and in case of non-compliance by the purchaser, his heirs or assigns, with the terms of the contract as aforesaid, or with the provisions of law applicable thereto, any and all persons being or continuing in possession of any such lands after a failure to comply with the terms of the contract as aforesaid, or with such provisions of law, as aforesaid, without a written permission of the commissioner, shall be deemed and held to detain such land forcibly, and without right, and to be trespassers thereon.

§ 36. RECOVERY OF POSSESSION.] In case any person holds or continues in possession of any of the lands mentioned in this act, contrary to the conditions or covenants of any lease or written agreement, he shall be liable to an action of forcible entry and detainer, or any other proper action for the recovery or possession of such lands, and damages for detention of the same.

§ 37. RECONVEYANCE TO UNITED STATES.] That in all cases where lands have been erroneously or improperly certified or conveyed to the State of North Dakota for school or other purposes by the proper officers of the general government of the United States, the Governor of the State is hereby authorized to reconvey or relinquish by the execution, under his hand and seal of the State, of such conveyances as will be necessary to convey or relinquish the title or color of title which the State may have to such lands.

§ 38. PATENTS—WHEN TO ISSUE.] When the lands sold under the provisions of this act shall have been fully paid for, both purchase price and interest and all taxes and rents, and all terms of the contract of purchase fully complied with, the Board of University and School Lands shall so certify to the Governor, who shall thereon issue to the purchasers thereof, their heirs or assigns, patents conveying the title of the State to said lands, and the Governor shall in like manner issue a patent to any purchaser of the rights, title and interest of the original purchaser, his heirs or assigns, at any execution or mortgage sale. All such patents shall be signed by the Governor, and attested by the Secretary of State, with the Great Seal of the State of North Dakota thereto, and shall be countersigned by the Board of University and School Lands, with the seal of the secretary of said board.

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

§ 40. TAXATION OF LANDS SOLD, DUTY OF COUNTY AUDITOR—RIGHT OF PURCHASER OF TAX CERTIFICATE.] The commissioner shall, as soon as possible after a sale of lands, transmit to the auditor of each county in which any lands mentioned in this act have been sold, a detailed description of each parcel of the land so sold, and the names of the purchasers; and the auditor shall extend the same upon his tax duplicate for the purpose of taxation, and the same shall thereupon become subject to taxation the same as other lands, and the taxes assessed thereon, collected and enforced in like manner as against other lands; *Provided, however,* That the purchaser of any such lands sold for delinquent taxes, or as forfeited to the State, shall acquire, and shall only acquire by virtue of such purchase, such rights and interest as belong to the holder and owner of the contract of sale issued by said commissioner under the provisions of this act, and the right to substitute in the place of such holder and owner of such contract of sale, as the assignee thereof; and upon the production to the proper officer of the tax certificate given upon said tax sale, in case said lands have not been redeemed, such tax purchaser shall have the right to make any payment of principal or interest then in default upon such land contract of sale, as the assignee thereof, prior to the redemption of said lands.

§ 41. PAYMENT TO COUNTY TREASURER AND DUTY OF SAID TREASURER.] The purchaser of any of the lands mentioned in this act, or their assigns, may pay to the treasurer of the county in which such lands lie, any amount which may be due from time to time on their several contracts, either for principal, interest, rents or penalty, and for the amount so paid the said county treasurer shall give to such person duplicate receipts, specifying the amount paid, date of payment, whether for principal, interest or penalty, and the fund to which it is applicable, the number of the contract, the name of the original purchaser of the land or the assignee thereof, which receipts shall be countersigned by the auditor of said county, and have the same force and effect as if given by the State Treasurer. All moneys received by the county treasurer, under the provisions of this act, shall be held at all times subject to the order and direction of the State Treasurer for the benefit of the funds to which the moneys respectively belong; and during the months of January, March, June and October of each year, and at such other times as he may be requested so to do by the State Treasurer, he shall pay into the State treasury all moneys received on account of such funds since the last payment he may have made.



§ 42. BOND OF COUNTY TREASURER.] The bond of county treasurers shall be conditioned for the honest and faithful discharge of all trusts and responsibilities imposed by this act and for the faithful payment of and accounting for all moneys received by him under the provisions of this act to the State Treasurer or any other person entitled to receive the same, and the Board of University and School Lands shall on or before the 1st day of January following any election for county officers certify to the chairman of the board of commissioners of each county the amount of money liable to come into the hands of the treasurer of the county by the provisions of this act, and the board of commissioners of the counties shall add to the amount of the sum required on his regular official bond to the county double the sum so certified by the Board of University and School Lands, and the record of the proceedings of said board of county commissioners when fixing the amount of said bond shall specify in two separate items the aggregate amount of the bond so made up, designating one sum as the amount to indemnify the county, and the other to indemnify the State for any losses incurred by reason of failure to comply with the provisions of all laws regulating their duties.

§ 43. FEES TO COUNTY TREASURERS.] County treasurers shall be entitled to a fee of one-half ( $\frac{1}{2}$  of 1) of one per cent. on each dollar collected or received and remitted by them in payment of principal or interest, fines, penalties and damages on State lands, which fees shall be payable from the general fund of the class of lands on which payment is made to said treasurer, and said fee shall be paid to the county treasurer on vouchers countersigned by the county auditor and approved by the Commissioner of University and School Lands, and such approved vouchers shall be paid out of any appropriation for the expenses of appraisal and sale of such lands.

§ 44. DUTY OF COUNTY AUDITOR.] The county [auditor] shall, at the time he is required by law to return abstracts of settlement to the State Auditor, also forward all duplicate receipts of principal, interest or penalty on State lands, with a certified statement of such collections by the county treasurer, specifying the amount of each item; and he shall also make such a return at any other time as may be required by the Board of University and School Lands.

§ 45. COMMISSIONER TO FURNISH COUNTY TREASURER WITH LIST OF LANDS SOLD.] On or before the first day of December in every year the commissioner shall cause to be made out, and transmit to county treasurers, a statement showing the lands sold in their respective counties, the number of the contracts of purchase, the name of the person to whom each contract was issued, and the amount of both principal and interest due on each on the first day of January, together with such directions, instructions and blanks as shall enable the county treasurers to carry out the provisions of this act.

§ 46. TOWNSHIP ASSESSORS TO EXAMINE STATE LANDS.] It shall be the duty of all township and district assessors, whenever required by the commissioner, to examine and report on any lands designated to them by him, in the manner and form prescribed by him, and for such examination they shall be paid at the rate of \$3 per day for time actually engaged, upon vouchers approved by the commissioner.

§ 47. TRANSFER OF RECORDS TO COMMISSIONER.] All abstracts and conveyances of title to the State of North Dakota of any land now owned or hereafter acquired by the State, whether the said lands be held for penal, educational, charitable, school or other purposes, shall be, by those in whose charge said conveyances now [are] or may come, deposited with and remain in control of the Commissioner of University and School Lands. All record books, excepting the bond register and the record of the proceedings of the Board of University and School Lands, contracts and documents in the office of the Superintendent of Public Instruction as secretary of said board, in the office of the State Auditor as recorder of such board, or filed in the office of the Secretary of State as custodian of documents for said board, or pertaining to the official acts of said board, shall, upon the taking effect of this act, be delivered by such officers to the Commissioner of University and School Lands; *Provided*, That certified copies of official records may be delivered to [by] the State Auditor, in lieu of the original records in his office, when such original records are incorporated in the permanent record books of the Auditor's office, which contains also records pertaining to other matters than those herein named.

§ 48. PERMANENT AND GENERAL FUNDS.] The principal sums accruing from all sales of school, university or other State lands under the control of the Board of University and School Lands, as provided for in this act, shall become a part of the several permanent funds to which they respectively belong and shall not be reduced by any costs, or charges of officers, by fees or any other means whatsoever. All moneys received as interest, for rents, penalties, permits or from any other source other than from the principal sums of sales, shall become a part of the general or current funds to which they respectively belong and shall be distributed as directed by law.

§ 49. QUANTITY OF LANDS TO BE SOLD.] No more than one-fourth of the common school lands of the State shall be sold within the first five years after they become saleable under the provisions of Section 155 of the Enabling Act. No more than one-half of the remainder within ten years after the same become saleable as aforesaid. The residue may be sold at any time after the expiration of said ten years; *Provided, however*, That the coal lands of the State shall not be sold, but may be leased under the provisions of any law by the Legislative Assembly governing such leases, the words "coal lands" including lands bearing lignite coal.



§ 50. LANDS SUBJECT TO LEASE.] All the common [school] lands and all other public lands of the State that are not of such value as will admit of appraisal at \$10 or more per acre at the time of any regular appraisal, may be leased; *Provided*, That no leases can be granted for a period longer than five years, and only for pasturage and meadow purposes, and at a public auction, after notice as hereinafter provided; *Provided, further*, That all of said school and public lands now under cultivation may be leased at the discretion and under the control of the Board of University and School Lands, for other than pasturage and meadow purposes until sold. All rents shall be paid annually in advance.

§ 51. APPRAISEMENT FOR LEASE.] It shall be the duty of the county board of appraisal, each and every year, if so ordered by the board, to appraise in the same manner as all other lands that are listed for taxation are appraised, all the common school and other public lands of the State in their respective districts that may be included in said order, making a return of all such appraisals to the Board of University and School Lands in the form prescribed on blanks furnished by the board; said returns to be made on or before the 1st day of July of the same year; and for any services performed as required by this act they shall be paid at the rate of \$3 per day, to be paid by the State Treasurer, out of the funds appropriated for the current expenses of said board. It shall be the duty of the Board of University and School Lands to equalize the appraisements so returned as to counties, by adding thereto or taking therefrom such a uniform percentage as may in their judgment seem proper and fair in order to arrive at a just and equitable equalization between the several counties, and upon such valuation so fixed the Board of University and School Lands are authorized to fix a per cent. per acre as the minimum price at which the land can be leased; *Provided*, That the lowest price of lands leased for pasturage cannot be below 1 per cent. of the average value in the county, and for any cultivated lands in the county the lowest price cannot be below 5 per cent. of the appraised value of each cultivated tract. And when advertising the same for lease, they shall set opposite each description the value thereof as equalized by them, which valuation shall form the basis for leasing the same.

§ 52. SELECTION OF LANDS FOR LEASE.] The Board of University and School Lands shall have the power, and it is hereby made their duty to select from the lands so appraised such tracts as in the judgment of the board can be leased with profit to the school and other permanent land funds of the State, or as the Legislature may by law order to be leased, and shall on or before the 1st day of March in each succeeding year, proceed to advertise for lease and offer for lease such lands as have thus been selected.

§ 53. ADVERTISEMENT FOR LEASING.] All such lands to be leased or offered for lease lying within the respective counties,

shall by the Board of University and School Lands be advertised for lease by publication once a week for not less than sixty days in some newspaper of general circulation in the vicinity of such lands. Such advertisement shall contain the designation or proper description of each tract or parcel of land so to be leased, the appraised value of each tract and the per cent. on such valuation fixed by the board as the minimum price at which said land can be leased, the time when and the place where such lands will be so leased and the terms of the lease. A copy of such advertisement shall also be posted in a conspicuous place at the court house of the county, and a notice of the time and place where the said lands are to be leased shall also be published for not less than sixty days in one newspaper at the seat of government by said Board of University and School Lands.

§ 54. MANNER OF LEASING—BY WHOM MADE AND HOW CONDUCTED.] It shall be the duty of the Commissioner of University and School Lands or such other person as may be appointed by the Board of University and School Lands, to conduct the leasing of such lands in accordance with the provisions of this act and such directions as shall be prescribed therefor by the board; *Provided*, That the leasing shall be at public auction to the highest bidder, at the court house or place where terms of the district court are held, which place of leasing shall be the county seat of the county wherein the lands are situated, commencing on the day specified in the advertisement for said lease and between the hours of 10 o'clock a. m. and 5 o'clock p. m., to continue from day to day until all tracts or parcels of land advertised for lease shall have been leased or offered for lease; but that the time for leasing the same shall not exceed ten days in any county, except that an adjournment may be made over the Sabbath or any legal holiday. In counties where a large number of tracts of land are to be leased the land situated in certain townships may be designated in the advertisement to be leased on certain specified days, and in such case said lands shall be leased or offered for lease on such specified days, or for want of time for the leasing or offering for lease of all such designated lands, the leasing of those unoffered may be adjourned until the following day or days, when they must be the first lands offered for lease. Such lands as shall not have been specially subdivided shall be leased or offered for lease in tracts of one-quarter section each, and those so subdivided in the smallest subdivision thereof. Notice must be given when this land is offered that all bids are subject to approval by the board. At the time of offering the lands for lease the auditor of the county shall act as clerk of said lease and it shall be and is his duty to make report of same in terms, time and manner as is prescribed in Section 23 of this act for report of sales of land.

§ 55. DEPOSIT BY BIDDERS—FORFEIT ON FAILURE TO PAY.] That in offering any tract or parcel of land no bid shall be enter-



tained until the bidder therefor shall deposit 50 per cent. of the minimum price fixed in the advertisement of the lease, which deposit, should he be the successful bidder, shall be applied as part payment on the lands so leased by him, but should he fail to pay the balance required on his said bid he shall forfeit the money so deposited. Deposits by all unsuccessful bidders shall be returned to them. All competitive bids shall be on the basis of so many dollars premium over and above the minimum price at which the tract is offered. The annual rent in all cases of lease shall be payable in advance as herereinafter provided.

§ 56. ADJOURNMENT OF LEASE.] Whenever the Board of University and School Lands find that the interests of the State will be subserved by an adjournment of the time for offering lands for lease, the authority conferred by Section 21 of this act for adjournment of sales is hereby made applicable to this section.

§ 57. APPROVAL OF LEASE AND EXECUTION OF CONTRACT FOR LEASE.] Immediately upon receipt of the report of the county auditor as required by this act, the Board of University and School Lands shall approve and confirm the lease of all such tracts as in their judgment should be made, and shall at once certify a list of the approved leases to the commissioner who shall without delay execute duplicate contracts of lease in the form prescribed by the board, and forward the same to the county auditor of the respective counties where the land was leased, who shall notify said lessee in writing to appear within ten days after date of notification and pay the county treasurer the amount of money required to complete the contract, and execute said contract and lease; and a failure to so appear and execute the contract shall act as a forfeit of the deposit made at time of the bid. When the contract is properly executed by the lessee and the amount of money due thereon shall have been paid to the county treasurer, the copy marked "duplicate shall be delivered him and the original thereof shall be returned" to the commissioner, and each contract fully executed and so returned shall have on its face in the place noted for such purpose, the notation of date of delivery to the lessee, and all contracts not executed by the lessee shall be returned to the commissioner with a written statement thereon of the reason for such return.

§ 58. THE BOARD OF UNIVERSITY AND SCHOOL LANDS TO HAVE POWER TO LEASE TO APPLICANTS IN CERTAIN CASES.] In case of failure on the part of the highest bidder for lease for any particular tract to execute the required contract, the board may have power to make a contract of lease for said lands to the first applicant therefor, who will pay the price offered by the highest bidder for said tract at the time of public offer of the same.

§ 59. LESSEE NOT TO DESTROY TIMBER.] No lessee of any tract or tracts of the common school or any other public lands of the State, or his heirs or assigns, shall cut down or take away from such tract or tracts any timber, trees or wood, or suffer or cause the same to be done by any person or persons, except

that such lessee may cut down or use such amount of dead, or prostrate trees or timber as may be sufficient to supply him with fuel for his family or the families of his employes actually residing upon such tract or tracts. Any lessee violating the provisions of this section shall forfeit his lease and all rights and interests thereunder to possession and shall furthermore be liable to the State for damages by such acts incurred, and shall also be liable to criminal prosecution under the laws of the State.

§ 60. LESSEE NOT TO BREAK UNCULTIVATED LAND.] No lessee, or the heirs or assigns of any lessee of any tract or tracts of the common school or other public lands of this State, leased for meadow or pasturage purposes, or lessee of such tract or tracts of school or other public lands leased for the purpose of cultivation, which may contain any uncultivated or unbroken land, shall break, plow or cultivate any unbroken land on any tract or tracts so leased, or cause or suffer it to be done by any other person. And any lessee, or his heirs or assigns, who shall violate the provisions of this section shall incur the same forfeitures and the same liabilities as are provided by the preceding section.

§ 61. HAY NOT TO BE CUT BEFORE JULY 10TH.] No lessee, or his heirs or assigns, shall mow or cut for hay or feed, any grass on any uncultivated land, or unbroken land, or cause or suffer the same to be done by any other person, any year before the 10th day of July therein. And any lessee, or his heirs or assigns, who shall violate the provisions of this section shall incur the same forfeitures and the same liabilities as provided by the preceding section.

§ 62. BOARD OF UNIVERSITY AND SCHOOL LANDS TO GRANT PERMITS TO CUT HAY AND TO REMOVE DEAD AND DOWN TIMBER AND TO APPOINT AGENTS.] The board shall have authority, when in their judgment it is for the best interests of the State so to do, to sell the right to cut grass on any of the public lands of the State and to sell any down and dead timber on said lands for such price, terms and conditions as they may think proper; *Provided*, That all such permits shall only be for the current season and between the 15th day of June and the 1st day of April of the following year, and that no control or rights of occupancy of said lands shall be other than what is specified in such permit, and may authorize the Board of University and School Lands to appoint as local agents to carry out the purposes of this act, the chairman of the board of town supervisors in organized townships, the commissioner of any district where the townships are not organized, or any other suitable person who is a resident of the township where the public lands are situated, who upon accepting such appointment, and before acting upon his duties as such agent shall take and subscribe an oath or affirmation justly and impartially to perform the duties of his office to the best of his ability, which oath of office shall be recorded in the office of the Secretary of State and filed in the office of the Board of Uni-

versity and School Lands. The duties of such agent shall be prescribed by the commissioner, to be approved by the Board of University and School Lands, and compensation for service shall be fixed by the board, based upon a percentage of amounts of money collected and remitted to the State Treasurer from the sale of grass and timber in his township or district.

§ 63. TRESPASS UPON PUBLIC LANDS—CIVIL ACTION FOR.] Whoever commits any trespass upon any of the lands owned or held in trust or otherwise, by this State, shall be liable in treble damages in an action of trespass, to be brought in the name of the people of this State, if such trespass is adjudged to have been willful; but single damages only shall be recovered in such action if such trespass is adjudged to have been casual and involuntary.

§ 64. WILLFUL TRESPASS—PENALTY.] Whoever commits any willful trespass upon any of the lands owned or held in trust or otherwise by this State, either by cutting down or destroying any timber or wood standing or growing thereon, or by carrying away any timber or wood therefrom, or by mowing or cutting or removing any hay or grass standing or growing or being thereon, or who injures or removes any buildings, fences, improvements, or other property belonging or appertaining to said lands, or unlawfully breaks or cultivates any of said lands, or aids, directs or countenances such trespass or other injury, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by imprisonment in the county jail not more than one year, or by fine not exceeding five hundred (500) dollars, or both such fine and imprisonment, in the discretion of the court. And whoever is occupying, residing upon, or in possession of any common school or other public lands owned or held in trust or otherwise by the State, at the time of the passage, approval and taking effect of this act, without a valid lease therefor, shall be deemed and held to be a willful trespasser thereon, and guilty of trespass upon such land, and upon conviction thereof, shall be punished as provided for in this section for any other act of trespass.

§ 65. PROPERTY TO BE SEIZED.] That in addition to the penalties provided for in this act against those committing trespass upon any of the lands owned or held in trust or otherwise by this State, the Commissioner of the Land Office is hereby authorized and empowered, without legal process, to seize and take, or cause to be seized and taken any and all timber, grass, wood or other property unlawfully severed from said lands, whether the same has been removed from said lands or not, and may dispose of the property so seized and taken, either at public or private sale, in such manner as will be most conducive to the interests of the State; and all moneys arising therefrom, after deducting the reasonable and necessary expenses of such seizure and sale shall be made a part of the general fund belonging to the public lands and shall be distributed in accordance with the provisions of this act.

§ 66. DEFENSE OF SUITS.] That for the purpose of determining the title of any property seized and taken under the provisions of the preceding section, the Attorney General or the states attorney in and for the county in which the lands are situated, is hereby authorized and empowered to defend any and all actions that may be brought for that purpose, and to perform those things necessary to protect the interest of the State.

§ 67. DAMAGES.] All damages recovered for any trespass or other injury upon or to any of the lands mentioned in this act, shall be paid over to the State Treasurer, for the benefit of the general fund to which the same properly belongs.

§ 68. STATES ATTORNEYS TO PROSECUTE AND REPORT.] The states attorneys of the several counties shall promptly report to the commissioner all trespass committed upon the said lands, which may come to their knowledge, and shall, when directed by the Attorney General, prosecute all actions for any trespass or injury thereto, or for recovery of possession thereof, or otherwise.

§ 69. DUTY OF THE ATTORNEY GENERAL.] The Attorney General when requested by the Board of University and School Lands, or by the commissioner, shall advise with and give his opinion upon all questions of law which are submitted to him by said board or commissioner, relating to their duties, and prosecute or cause to be prosecuted by the states attorneys whenever in his opinion the public interest requires it, any person who may be charged with any indictable offense under this act.

§ 70. EXPENSES OF ADVERTISING FOR LEASE AND SALE—HOW PAID.] The expenses of publishing due notices of the leasing and sale of the university, school and all other public lands of the State shall be paid by the State Treasurer upon the warrant of the State Auditor out of the general or current funds of the different institutions as designated in Section 48 of this act, and said expenses shall be apportioned according to the receipts credited each fund from proceeds of each and every sale or lease. All bills for such publishing shall be verified by the publisher and approved by the Board of University and School Lands.

§ 71. APPROPRIATION FOR EXPENSES OF BOARD OF UNIVERSITY AND SCHOOL LANDS.] There is hereby annually appropriated, out of any funds in the treasury not otherwise appropriated, the sum of ten thousand (10,000) dollars, or so much thereof as may be found necessary, for the salaries and expenses of the Commissioner of University and School Lands, clerk hire, record books, blanks, and all such other expenses as shall necessarily be incurred by the Board of University and School Lands in carrying out the purposes of this act, and all such necessary expenses of the Board of University and School Lands shall be paid out of the treasury, and upon satisfactory vouchers therefor the State Auditor shall issue his warrant for the same.

§ 72. APPROPRIATION FOR EXAMINATION OF LANDS AND PAYMENT OF LAND OFFICE FEES.] There is hereby appropriated, out



of any funds in the treasury not otherwise appropriated, the sum of six thousand (6,000) dollars, or as much thereof as may be found necessary for the payment of the United States Land Office fees for lands yet to be selected as provided in this act.

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

§ 74. EMERGENCY.] Whereas, it is necessary that a law fully providing for the control and management of all public lands of this State and defining the powers and duties of the Board of University and School Lands and their agents be in effect immediately, this act shall take effect and be in force from and after its passage.

Approved, March 10, 1893.

## CHAPTER 119.

[S. B. No. 110.]

### TO CONFIRM SALE OF SCHOOL LANDS.

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

§ 1. SALES CONFIRMED.] That each and all the sales of University and School Lands of this State made by the board thereof in April, 1892, consisting in the aggregate of seventy-one thousand, eight hundred and nine and sixty-seven hundredths acres or thereabouts, located in the several counties of Pembina, Walsh, Grand Forks, Traill, Cass and Richland of this State, be and the same, each and all, are hereby ratified and confirmed to each and all their several purchasers or grantees, their heirs, representatives and assigns, the same as if such sales had been duly advertised and made between April 15, 1891, and June 1, 1891.

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

Approved, March 6, 1893.