

LAWS

PASSED AT

THE SIXTH SESSION

OF THE

LEGISLATIVE ASSEMBLY

OF THE

STATE OF NORTH DAKOTA

BEGUN AND HELD AT BISMARCK, THE CAPITAL OF SAID STATE.
ON TUESDAY, THE THIRD DAY OF JANUARY, A. D. 1899,
AND CONCLUDED MARCH THIRD, A. D. 1899.

GRAND FORKS, N. D.
HERALD, STATE PRINTERS AND BINDERS.
1899.

AUTHENTICATION.

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

I hereby certify that the laws contained in this volume are true and correct copies of the original enrolled bills passed by the Legislative Assembly of the State of North Dakota, at the sixth session thereof, beginning January 3d, 1899, and terminating March 3d, 1899, 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 12th day of April, 1899.

[SEAL]

FRED FALLEY,
Secretary of State.

THE LAWS.

ACKNOWLEDGMENTS.

CHAPTER 1.

[S. B. 124.]

DEFECTIVE ACKNOWLEDGMENTS.

AN ACT to Cure Defective Acknowledgments.

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

§ 1. ACKNOWLEDGMENTS.] That the acknowledgments of all deeds, mortgages or other instruments in writing, taken and certified by any township or city clerk, or auditor of any city, recorder of any town or village in this state, and which have been duly recorded in the proper counties in this state, be, and the same hereby are declared to be legal and valid; and in all courts of law and equity in this state and elsewhere, they shall be so taken; and in such courts all instruments so acknowledged, and the record of such instruments shall have the same force and evidentiary value as instruments, the acknowledgment of which was taken before any officer qualified to take such acknowledgments and certified by him. Provided, that nothing here contained shall in any manner affect the right or title of a bona fide purchaser, without notice, of such instrument or the record thereof, for a valuable consideration, of any property or real estate. And, provided further, that a purchaser on execution at foreclosure sale of any lands affected by this act shall be considered a bona fide purchaser.

§ 2. EMERGENCY.] Whereas an emergency exists in that by a recently promulgated opinion of the attorney general of this state, doubt exists as to the validity of acknowledgments taken by the officers mentioned in this act it shall take effect and be in force from and after its passage and approval.

Approved February 24, 1899.

CHAPTER 2.

[S. B. 72.]

ACKNOWLEDGMENTS AND AFFIDAVITS.

AN ACT to Define and Limit the Officers Before Whom Affidavits and the Proof or Acknowledgment of Certain Instruments May be Made, and the Relationship Which May Exist Between the Parties to Instruments and Officers Taking the Proof or Acknowledgment of the Same, and of Affidavits.

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

§ 1. WHO SHALL NOT EXECUTE.] No person heretofore or hereafter authorized by law to take or receive the proof or acknowledgment of the execution of an instrument or affidavit, and to certify thereto, shall take or receive such proof or acknowledgment or affidavit or certify to the same, if he shall be a party to such instrument, or a member of any partnership which partnership shall or may be a party to such instrument, nor if the husband or wife of such person or officer shall be a party to such instrument.

§ 2. AS TO CORPORATIONS.] Nothing herein contained, nor in the laws of the State of North Dakota, heretofore enacted, relating to the proof and acknowledgment of instruments, and taking of affidavits, shall be construed to invalidate or affect the proof or acknowledgment, affidavit, or the certificate thereof, of any instrument to which a corporation may be a party, and which instrument shall have been or may be proven or acknowledged or sworn to before, or certified to by an officer or person authorized by law, who may be an officer, director, employe or stockholder of such corporation, and no person otherwise qualified or authorized by law to take and receive the proof or acknowledgment of instruments or affidavits, and to certify thereto, shall be disqualified by reason of being an officer, director, employe or stockholder of any corporation, a party to such instrument, and such proof, acknowledgments, and certificates thereof shall be and are hereby declared valid for all purposes.

§ 3. PERSONS AUTHORIZED.] All officers and persons authorized by law to take the proof or acknowledgment of instruments and affidavits and to certify thereto, may take such proof or acknowledgment and certify to the same, in all cases not prohibited by this act.

§ 4. EMERGENCY.] Whereas, an emergency exists in that there is a conflict of authority as to the relationship permissible by law between parties to instruments and persons or officers authorized to take and receive the proof or acknowledgment and affidavits thereof, and to certify to the same, therefore, this act shall take effect upon its passage and approval.

Approved March 6, 1899.

APPEALS FROM JUSTICE COURT.

CHAPTER 3.

[S. B. 61.] .

APPEALS IN CERTAIN CASES.

AN ACT to Amend Section 5574 of the Revised Codes of North Dakota of 1895 by Allowing the Same Statutory Costs in Cases Appealed from a Justice Court as in Cases Originally Commenced in the District Court.

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

§ 1. AMENDMENT.] That section 5574 of the Revised Codes of North Dakota of 1895 be and the same is hereby amended to read as follows:

§ 5574. ATTORNEYS' FEES BY AGREEMENT. COSTS, WHEN ALLOWED.] The amount of fees of attorneys, solicitors and counsel in civil and criminal actions must be left to the agreement, express or implied, of the parties. But in civil actions there may be allowed to the prevailing party upon the judgment certain sums by way of indemnity for his expenses in the action in addition to the disbursements now allowed by law, which allowances are termed costs. The same costs shall be allowed in cases appealed from a Justice Court as in cases originally commenced in the District Court and in such appealed cases the expression "Notice of Trial," appearing in the section following shall be construed to mean "Notice of Appeal" in all places where the same shall appear.

Approved February 24, 1899.

ASSESSMENTS.

CHAPTER 4.

[H. B. 51.]

RELATING TO ASSESSMENTS.

AN ACT Entitled "An Act to Amend Section 75 of Chapter 126, of the Session Laws of 1897, Entitled an Act Prescribing the Mode of Making Assessments of Property, the Equalization of and the Levy and Collection of Taxes and for all Other Purposes Relative Thereto, and the Repealing of Sections 1176 to 1198 Inclusive, 1200 to 1229 Inclusive, 1231, 1234, 1237 to 1240 Inclusive, 1242 to 1247 Inclusive, 1250 to 1253 Inclusive, 1255 to 1290 Inclusive, 1294, 1296, 1309, 1321, 1325 to 1330 Inclusive, 1336 to 1339 Inclusive, and 1346 of the Revised Codes of North Dakota of 1895, and All Other Sections and Parts of Sections of Said Codes, and of All Acts and Parts of Acts Inconsistent with the Provisions of this Act."

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

§ 1. AMENDMENT.] That section 75 of chapter 126 of the Session Laws of 1897 be amended so as to read as follows:

§ 75. PENALTY AND INTEREST. DISPOSITION OF.] All penalty and interest collected on taxes shall belong to the county and become a part of the general fund, or such other fund as the county commissioners may direct; except the penalty and interest collected on special assessments due to cities, and all such penalties and interest shall be paid to the city thereunto entitled.

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

§ 3. EMERGENCY.] Whereas, an emergency exists inasmuch as there are counties in the state that should derive immediate benefit under this act, therefore, this act shall take effect from and after its passage and approval.

Approved February 24, 1899.

CHAPTER 5.

[S. B. 120.]

ELEVATORS AND WAREHOUSES.

AN ACT Providing for the Assessment and Taxation of Grain in Elevators, Warehouses and Grainhouses, and Providing for Penalties for the Violation of the Provisions of the Act.

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

§ 1. WHEN ASSESSED.] All grain in any elevator, warehouse or grainhouse in this state on the first day of April in each year shall be assessed and taxed in the name of the person, firm, company or corporation owning or operating such elevator, warehouse or grainhouse on said date.

§ 2. AGENTS SHALL FURNISH STATEMENT.] All agents or other persons in charge of any such elevator, warehouse or grainhouse shall furnish the assessor under oath a statement of all grain in any such elevator, warehouse or grainhouse on the first day of April in each year, such statement to include the number of bushels of each and all kinds of grain on said date in any elevator, warehouse or grainhouse of which he is agent, or has under his care or control, and shall further show in said statement the owner, or owners, of such elevator, warehouse or grainhouse, or if said elevator, warehouse or grainhouse is not operated by the owner then the person, firm, company or corporation operating the same.

§ 3. OWNERSHIP OF GRAIN.] That if the grain so assessed is not owned by the person, firm, company or corporation against whom it is assessed and taxed under the provisions of this act then such person, firm, company or corporation shall have a lien upon such grain for the amount of the tax charged under such assessment and taxation, and can hold such an amount of the grain assessed and taxed under the provisions of this act as may be necessary to pay the tax charged against such person, firm, company or corporation on the grain so assessed and taxed.

§ 4. PENALTY.] Any agent of any person, firm, company or corporation engaged in the handling, buying, selling, transferring or storing of grain in this state or any person having any elevator, warehouse or grainhouse under his charge or control who shall refuse to make the statement as provided in section 2 of this act shall be deemed guilty of a misdemeanor, and any agent of any person, firm, company or corporation engaged in the handling, buying, selling, transferring or storing of grain in this state, or any person having any elevator, warehouse or grainhouse under his charge or control who in making the statement provided in section 2 of this act makes any false statements shall be deemed guilty of perjury,

and it is hereby made the duty of the assessor to report any violation of this act to the state's attorney of the proper county for his action.

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

§ 6. EMERGENCY.] Whereas, an emergency exists in that the assessments provided by this act are to be made prior to the first day of July, 1899; therefore, an emergency exists and this act shall take effect and be in force from and after its passage and approval.

Approved March 8, 1899.

ASYLUM FOR POOR.

CHAPTER 6.

[H. B. 20.]

PROVIDING FOR AN ELECTION.

AN ACT to Amend Section 1495 of the Revised Codes of the State of North Dakota, Relating to the Time of Holding an Election for the Purchase of an Asylum for the Poor, and Providing for the Appointment of a Superintendent for Such Asylum.

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

§ 1. That section 1495 of the Revised Codes of North Dakota be and the same is hereby amended to read as follows:

§ 1495. AMENDMENT.] It shall be lawful for the board of county commissioners in the several counties in the state after having submitted the question to the legal voters of the county at any special, county or general election whenever the commissioners may deem it advisable, and if at such election a majority of the legal voters shall vote in favor of the proposition to purchase a tract of land in the name of the county and build, establish and organize thereon an asylum for the poor and to employ some humane and responsible person, a resident of the county, to take charge of the same upon such terms, and under such restrictions as the board shall consider most advantageous for the interest of the county, who shall be called superintendent of the county asylum; and it shall be lawful for the county commissioners of two or more counties, after having been so authorized, by a majority of the legal voters of their respective counties, in the manner prescribed in this section, jointly to purchase lands and erect asylums and to continue such joint ownership during their pleasure; and to do such

other things necessary and proper for the relief of the poor within such counties as might be done by a county acting alone.

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

Approved March 2, 1899.

APPROPRIATIONS.

CHAPTER 7.

[S. B. 42.]

AGRICULTURAL COLLEGE.

AN ACT Providing for an Appropriation for the Erection of Additional Buildings and for the Payment of the Contingent Expenses of the North Dakota Agricultural College and Experimental Station, Located at Fargo, 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 treasury, not otherwise appropriated, the following sums of money, to-wit:

For library, furniture and fixtures.....	\$ 300 00
For librarian.....	600 00
For printing and stationery.....	800 00
For engineer, watchman and janitors.....	3,500 00
For preparatory instructor.....	2,000 00
For fuel.....	4,500 00
For to enlarge mechanical building for wood and iron work..	2,000 00
For miscellaneous expenses.....	14,000 00

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

Approved February 28, 1899.

CHAPTER 8.

[S. B. III.]

AGRICULTURAL COLLEGE.

AN ACT to appropriate the Sum of Four Hundred and Forty Dollars to Pay L. A. Leck and H. P. Leck, Composing the Firm of Leck & Leck, for Work and Labor Done and Material Furnished for the North Dakota Agricultural College at Fargo, North Dakota.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of the monies of the state treasury, not otherwise appropriated, the sum of four hundred and forty dollars for the purpose of paying L. A. Leck and H. A. Leck, composing the firm of Leck & Leck, for labor done and material furnished the North Dakota Agricultural College, and the state auditor is hereby authorized to draw his warrant on the state treasurer for said amount in favor of said firm of Leck & Leck, in full of said account.

Approved March 6, 1899.

CHAPTER 9.

[S. B. 8.]

HOSPITAL FOR INSANE.

AN ACT to Provide an Appropriation for the Current and Contingent Expenses and to Provide for New Buildings and for Making Needed Permanent Improvements for the Hospital for the Insane at Jamestown.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any money in the state treasury, not otherwise appropriated, for the purpose of paying the current and contingent expenses of the Hospital for the Insane at Jamestown, and for the construction of new buildings and permanent and needed improvements connected therewith for the fiscal years 1899 and 1900, the sum one hundred and ten thousand three hundred dollars (\$110,300), or so much thereof as may be necessary, as follows:

Maintenance.....	\$57,000 00
Paints and oils.....	200 00
Incidental expenses and repairs.....	1,000 00
Engine room supplies.....	400 00
Drugs and medicines.....	1,200 00
Employes' wages.....	30,000 00
Fuel.....	16,000 00

Electrical repairs.....	300 00
Fire department.....	500 00
Blacksmith shop.....	150 00
Return of patients and burial of dead.....	1,200 00
Beds, bedding and furniture.....	500 00
Chaplain, library and amusements.....	400 00
Laundry supplies.....	200 00
Purchase of additional land.....	1,250 00
Total.....	\$110,300 00

§ 2. EMERGENCY.] An emergency exists in this that the fiscal year for which this appropriation is made shall not begin before July 1st, and the funds hereby appropriated for the making of improvements and the building of new buildings will be needed before that time; therefore, this act shall take effect from and after April 15th, 1899.

Approved February 28, 1899.

CHAPTER 10.

[S. B. 30.]

DEAF AND DUMB ASYLUM.

AN ACT for the Maintenance of the Deaf and Dumb Asylum of North Dakota, Located at Devils Lake, and for Necessary Improvements and Repairs, 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 \$30,000.00 for maintenance, and the sum of \$17,000.00 for improvements and repairs of the Deaf and Dumb Asylum at Devils Lake for two years:

For maintenance.....	\$10,000 00
For salaries.....	9,200 00
For wages.....	4,000 00
For fuel.....	2,000 00
For lights.....	600 00
For furniture and bedding.....	1,500 00
For books and school supplies.....	400 00
For drugs and medical attendance.....	400 00
For farm machinery and stock.....	100 00
For feed of stock.....	500 00
For incidentals and ordinary repairs.....	1,300 00
Maintenance total.....	\$30,000 00
For completion of present building and repairs on same.....	\$ 9,400 00
For heating plant.....	2,500 00
For sewerage and plumbing.....	2,500 00
For hospital building and site.....	1,700 00
For laundry.....	900 00
Improvements total.....	\$17,000 00

§ 2. EMERGENCY.] An emergency existing by reason of the fact that there will be no moneys in the hands of the state treasurer for the payment of the current expenses of this institution after March 31, 1899, this act shall take effect immediately after its passage and approval.

Approved February 28, 1899.

CHAPTER 11.

[S. B. 133.]

INDUSTRIAL SCHOOL.

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

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

§ 1. APPROPRIATION.] There is hereby appropriated out of moneys in the state treasury, not otherwise appropriated, the sum of \$7,000 for the maintenance and improvement of the Industrial School and School for Manual Training for two years, beginning July 1, 1899, and ending March 31, 1901, viz:

For salaries.....	\$ 4,300 00
For janitors' fees.....	500 00
For material and furnishings.....	250 00
For water supply.....	50 00
For fuel and lights.....	300 00
For incidental and contingent.....	600 00
Steam heating plant.....	1,000 00

Total.....\$ 7,000 00

Approved February 28, 1899.

CHAPTER 12.

[S. B. 38.]

NORMAL SCHOOL, MAYVILLE.

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

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

§ 1. APPROPRIATION.] There is hereby appropriated out of the funds in the state treasury, not otherwise appropriated, the sum of twenty-two thousand three hundred (\$22,300) dollars for the maintenance and improvement of the State Normal School at Mayville, North Dakota:

For teachers' salaries.....	\$15,000 00
For janitor.....	1,200 00
Incidentals.....	1,500 00
Fuel and lights.....	2,500 00
Repairs.....	500 00
Library and scientific apparatus.....	100 00
Completing sewer.....	1,500 00

§ 2. EMERGENCY.] Whereas, an emergency exists in that there is no appropriation for the maintenance of the Normal School at Mayville, for the period commencing March the first, 1899; this act shall take effect immediately on its passage and approval.

Approved February 28, 1899.

CHAPTER 13.

[S. B. 31.]

NORMAL SCHOOL, VALLEY CITY.

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

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

§ 1. APPROPRIATION.] There is hereby appropriated out of the funds in the state treasury, not otherwise appropriated, the sum of \$25,500.00 for the maintenance and improvement of the State Normal School at Valley City, North Dakota:

For salary faculty.....	\$15,500 00
For incidental purposes.....	2,000 00
For fuel.....	1,865 00

IMPROVEMENTS AND REPAIRS.

For calcimine and repairing walls.....	100 00
For equipping with water and sewer.....	500 00
For repairing and painting roof.....	150 00
For pointing foundation and brick work.....	50 00
Completing the basement.....	1,000 00
For heating plant.....	2,500 00
For electric lighting.....	235 00
For janitor fund.....	1,200 00
For library and apparatus.....	100 00
For furniture.....	300 00

Total.....\$25,500 00

§ 2. EMERGENCY.] Whereas, an emergency exists in that there is no appropriation for the maintenance of the Normal School at Valley City, North Dakota, for the period commencing March 1, 1899, and ending June 30, 1899, this act shall take effect immediately on its passage and approval.

Approved February 28, 1899.

CHAPTER 14.

[S. B. 130.]

STATE UNIVERSITY.

AN ACT Making an Annual Appropriation for the Maintenance of the State University.

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

§ 1. APPROPRIATION.] For the year 1899, and for each and every year thereafter, there is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of two-fifths of a mill upon the dollar of the assessed valuation of the property assessment of the State of North Dakota, as fixed by the state board of equalization for the preceding year, the same to be paid monthly to the board of trustees of the University of North Dakota upon the voucher of said board, signed by its president.

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

Approved February 28, 1899.

CHAPTER 15.

[S. B. 56.]

UNIVERSITY DEFICIT.

AN ACT Making Appropriation for a Deficit in the Miscellaneous Expenses Incurred in the Maintenance of the University of North Dakota.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any funds in the state treasury, not otherwise appropriated the following sum, viz:

To clear up the debts incurred in the maintenance of the University of North Dakota during the past two years, seven thousand five hundred dollars (\$7,500.00).

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

Approved February 28, 1899.

CHAPTER 16.

[S. B. 52.]

SOLDIERS' HOME.

AN ACT to appropriate for Current and Contingent Expenses, Furnishing, and for Making Needed Permanent Improvements for the State Soldiers' Home at Lisbon.

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, furnishing, maintenance, and for needed permanent improvements and repairs for the State Soldiers' Home at Lisbon, North Dakota, for the fiscal years 1899 and 1900, the sum of \$14,000.00, or so much thereof as may be necessary, to wit:

Current expenses.....	\$ 2,200 00
Subsistence.....	6,200 00
Clothing.....	800 00
Household.....	1,300 00
Hospital.....	1,600 00
Transportation.....	200 00
Construction.....	400 00
Farm.....	1,000 00
Repairs.....	300 00
Total.....	\$ 14,000 00

§ 2. EMERGENCY.] Whereas, an emergency exists in that there are no funds available to meet the current and contingent expenses of said Soldiers' Home, and whereas, there is no hospital or facilities for the care of the sick, and the death rate increasing by reason of the advancing age of the inmates, the sick are kept and attended in the midst of the well, and the dead are necessarily kept in the regular sleeping apartments until burial, a state of affairs highly detrimental to the health of the inmates; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved February 28, 1899.

CHAPTER 17.

[S. B. 18.]

STATE PENITENTIARY.

AN ACT Entitled an Act Making Appropriations for the Current and Contingent Expenses of the State Penitentiary and for Making Permanent Improvements and Additions Thereto.

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

§ 1. APPROPRIATION.] That there is hereby appropriated the following sums of money, or so much thereof as may be necessary, out of any moneys in the state treasury, not otherwise appropriated, for the purpose of paying the current and contingent expenses of the State Penitentiary at Bismarck, and for the purpose of making permanent improvements and additions thereto, as follows, viz:

Warden's salary.....	\$ 3,200 00
Deputy warden's salary.....	1,800 00
Bookkeeper and assistant gatekeeper.....	800 00
Matron and housekeeper.....	800 00
Chaplain.....	300 00
Guards and employes.....	13,000 00
Maintenance.....	23,400 00
Heating and lighting.....	5,000 00
Repairs and improvements.....	1,000 00
Incidentals.....	1,000 00
Physician and medicines.....	1,500 00
Transportation, clothing and temporary aid, discharging inmates..	3,500 00
Clothing for inmates.....	3,000 00
Bedding.....	500 00
Books, stationery, etc.....	500 00
Water supply.....	1,500 00
Yard wall.....	2,700 00

§ 2. EMERGENCY.] An emergency exists in this that there is no provision made for the payment of the expenses of the penitentiary after March 1, 1899; therefore, this act shall take effect from and after its passage and approval.

Approved February 28, 1899.

CHAPTER 18.

[S. B. 176.]

FOR STATE PENITENTIARY.

AN ACT Entitled an Act Authorizing the Board of Trustees and Warden of the State Penitentiary to Purchase or Otherwise Acquire Not to Exceed Thirty (30) Acres of Land for Yard, Garden and Other Purposes and Appropriating Nine Hundred Dollars (\$900.00), or So Much Thereof as May be Needed Therefor.

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

§ 1. TRUSTEES AUTHORIZED TO PURCHASE PROPERTY.] The board of trustees and the warden of the State Penitentiary are hereby authorized and empowered, in the name of the state, to purchase, or otherwise acquire according to law, thirty (30) acres of land or so much thereof as they may deem necessary, and to hold, use and occupy the same for yard, stock or fodder corrals, garden, sites for buildings and any other purposes for which the same are needed.

§ 2. APPROPRIATION.] There is hereby appropriated the sum of nine hundred dollars (\$900.00), or so much thereof as may be necessary for the purposes above specified.

§ 3. EMERGENCY.] An emergency exists in that said land will be needed before the first day of July next, therefore this act shall take effect and be in force from and after its passage and approval.
Approved March 8, 1899.

CHAPTER 19.

[S. B. 151.]

ADVERTISING SCHOOL LANDS.

AN ACT to Appropriate Money to Pay for Re-appraisalment, Advertising and Expenses Attendant Upon the Sale of Institution and Common School Lands.

Whereas, There have been no institution lands sold, and further, there have been no common school lands sold since 1893, with the exception of small tracts in Stutsman County and Pembina County, and

Whereas, It is deemed by the Board of University and School Lands to be for the best interests of the common schools and institutions that a sale of lands be held within the next two years, and

Whereas, These lands cannot be offered for sale without a re-appraisalment and advertisement.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any funds in the treasury, not otherwise appropriated, the sum of \$4,000, or so much thereof as may be necessary for the following purposes: Two thousand (\$2,000) dollars for the purpose of re-appraising lands for sale. And the further sum of \$2,000 to pay expenses of advertising and selling lands.

Approved March 8, 1899.

CHAPTER 20.

[S. B. 55.]

EXECUTIVE MANSION.

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

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

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

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

Approved February 28, 1899.

CHAPTER 21.

[S. B. 110.]

TO REIMBURSE BURLEIGH COUNTY.

AN ACT to Reimburse the County of Burleigh for Expenses Incurred in Prosecuting W. H. Leonard for Obtaining Wolf Bounty From the State Treasury Under False Pretenses.

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 \$1,197.00 for the purpose of re-imbursing the County of Burleigh

for money paid by said county as court expenses, for the arrest, trial and conviction of W. H. Leonard, charged with the crime of obtaining money under false pretenses by fraudulently obtaining wolf bounty from the state treasury.

Approved March 6, 1899.

CHAPTER 22.

[S. B. 112.]

CAPITOL BUILDING.

AN ACT to appropriate Money to Pay S. E. Olson Company for Furniture Furnished for the Capital Building During the Year 1894.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any funds in the treasury, not otherwise appropriated, the sum of three hundred dollars, to S. E. Olson Co., for furniture furnished for the capitol building during the year 1894.

Approved March 6, 1899.

CHAPTER 23.

[S. B. 26.]

OMAHA EXPOSITION.

AN ACT to Provide for Paying the Expense Incurred by the North Dakota Commission in Making an Exhibit on Behalf of the State at the Trans-Mississippi and International Exposition Held at Omaha in the State of Nebraska in 1898, to Refund Money Advanced by Certain Persons for the Purpose of Making Said Exhibit, and to appropriate Money 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 \$2,124.25, for the purpose of paying the expense incurred by the North Dakota commission in making an exhibit on behalf of the state at the Trans-Mississippi and International Exposition, held at Omaha, in the State of Nebraska, in 1898, and to refund the money advanced by certain persons for the purpose of making said exhibit.

§ 2. AUDITOR TO DRAW WARRANT.] The state auditor shall draw

his warrant upon the state treasurer in the disbursement of said appropriation as follows: For money advanced,

To Cass County.....	\$ 250 00
To Ransom County.....	100 00
To Bishop John Shanley.....	100 00
To J. E. Cronan.....	100 00
To J. J. McCanna.....	100 00
To Wilbur & Steele.....	100 00
To J. W. Maher.....	100 00
To Ed. Pierce and Adams & Frees.....	100 00
To C. A. Lounsberry.....	270 56
To W. W. Barrett.....	253 69
To Crafts & Montgomery.....	25 00
To J. A. Johnson.....	5 00
To R. J. Mooney.....	5 00
To J. H. Worst.....	5 00
To B. F. Spalding.....	5 00
To A. B. McDonald.....	5 00
To Edwards & Plumley.....	5 00
To Alex Stern.....	5 00
To C. A. Pollock.....	5 00
To Ed. Pierce.....	5 00
To George S. Barnes.....	5 00
To Terrance Martin.....	5 00
To Record Publishing Company.....	5 00
To W. H. Robinson.....	100 00
To James J. Hill.....	200 00
To Miss H. E. Ford, for services.....	100 00
To C. A. Lounsberry, for 30 days services.....	90 00
To W. W. Barrett, for money advanced and expense incurred not included in commissioner's report.....	75 00

\$ 2,124 25

§ 3. EMERGENCY.] Whereas, there is an emergency in this that the money herein appropriated should be paid at once, this bill shall take effect and be in force on and after its passage.

Approved February 28, 1899.

CHAPTER 24.

[S. B. 53.]

RAILROAD RATE CASES.

AN ACT to Provide for the Paying of the Expenses Incurred in the Railroad Rate Case, and to Refund Money Advanced by Certain Persons for the Prosecution of Said Suit.

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 \$2,872.38, for the purpose of paying the expenses incurred in

the railroad rate case and to refund the money advanced by certain persons for the prosecution of said suit.

§ 2. AUDITOR TO DRAW WARRANT.] That the state auditor shall draw his warrant upon the state treasury in the disbursement of said appropriations as follows for money advanced:

To Mrs. Nannie R. Briggs, "per Governor Frank A. Briggs," \$1,981.73.

To J. M. Devine, \$651.05, and the further sum of two hundred dollars for other expenses incurred.

§ 3. EMERGENCY.] Whereas, there is an emergency in this that the money should be paid at once, and this bill take effect and be in force from and after its passage and approval.

Approved March 4, 1899.

CHAPTER 25.

[S. B. 15.]

SPICER FAMILY.

AN ACT to appropriate the sum of \$500 as a Reward for the Capture of the Murderers of the Spicer Family in Emmons County.

Whereas, The Fifth Legislative Assembly of the State of North Dakota passed a concurrent resolution authorizing the governor of the state to offer a reward of \$500 for the arrest and conviction of the murderers of the Spicer family in Emmons County; and,

Whereas, Following such offer of reward certain Indians were pursued and arrested on suspicion of committing said murder, two of whom confessed to the crime, therefore,

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

§ 1. APPROPRIATION.] That the sum of \$500 offered as a reward by the governor of the State of North Dakota for the arrest and conviction of the murderers of the Spicer family be paid by the governor of the state to Peter Shier, of Emmons County, and that the sum of \$500 be and the same is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated.

§ 2. EMERGENCY.] Whereas, an emergency exists in that this money is long since due the parties who arrested the murderers aforesaid; therefore, this law shall go into force and effect from and after its passage and approval.

Approved February 15, 1899.

CHAPTER 26.

[H. B. 102.]

REPAIRS FOR PUBLIC BUILDINGS.

AN ACT to Amend Section 338 of the Revised Codes of North Dakota. Relating to Supplies for Public Offices, Repairs Upon the Capitol Building and Executive Mansion and the Public Grounds and Parks Connected Therewith, and Making an Annual Appropriation Therefor.

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

§ 1. AMENDMENT.] That section 338 of the Revised Codes of North Dakota be and the same is hereby amended to read as follows:

§ 338. SUPPLIES FOR PUBLIC OFFICERS. APPROPRIATIONS.] The board of trustees of public property are authorized and empowered to provide all necessary furniture, fuel, lights, stationery, postage and all other necessary supplies for the state offices and to make all necessary repairs upon the capitol building and executive mansion and the public grounds and parks connected therewith, and there is hereby annually appropriated out of any money in the state treasury, not otherwise appropriated, the sum of twenty thousand dollars, or as 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 he shall deem to be due on accounts or claims against such appropriation upon approval thereof by the governor, and the state treasurer is hereby directed to pay such warrants from the general fund of the state.

§ 2. EMERGENCY.] Whereas, it is necessary for the proper transaction of the public business of the state to supply the capitol building with fuel and the state officials with stationery and other requisite supplies, an emergency exists; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved February 24, 1899.

CHAPTER 27.

[S. B. 109.]

RAILROAD COMMISSION.

AN ACT to Appropriate Money to Pay Traveling Expenses of the Board of Railroad Commissioners and Its Secretary.

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

§ 1. APPROPRIATION.] That there is hereby appropriated out of any money in the state treasury, not otherwise appropriated, the

sum of eight hundred dollars per annum, or so much thereof as may be necessary, for the purpose of paying the traveling expenses of the board of railroad commissioners and its secretary when actually engaged in the discharge of their duties.

§ 2. EMERGENCY.] There being no provision for the payment of such expenses, this act shall take effect upon its passage and approval.

Approved March 8, 1899.

BANKING.

CHAPTER 28.

[H. B. 36.]

POWERS OF BANKING CORPORATIONS.

AN ACT to Amend Sections 3229 and 3230 of the Revised Codes of North Dakota, Relating to the Powers of Banking Corporations Organized Under the Laws of the State of North Dakota.

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

§ 1. AMENDMENT.] That section 3229 of the Revised Codes of North Dakota be and the same is hereby amended so as to read as follows:

§ 3229. POWERS.] Upon duly making and filing articles of association, and an organization certificate the association shall become as from the date of the execution of the same a body corporate, and as such, and in the name designated in the certificate it shall have power:

1. To adopt and use a corporate seal.
2. To have succession for a period of twenty-five years from its organization unless it is sooner dissolved according to the provisions of this chapter, or unless its franchise becomes forfeited by some violation of law.
3. To make contracts.
4. To sue and be sued.
5. To elect or appoint directors, two-thirds of whom must be residents of this state, and by its board of directors to appoint a president and vice-president, who shall be members of said board, a cashier and assistant cashier and such other employes as may be required, define their duties, require bonds of them and fix the penalty thereof, dismiss such officers, or any of them, and appoint others to fill their places.

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

7. To exercise by its board of directors or duly authorized officers or agents, subject to law, all such incidental powers as shall be necessary to carry on the business of banking, by discounting and negotiating promissory notes, bills of exchange, drafts and other evidences of debt by receiving deposits, by buying and selling exchange, coin and bullion, by loaning money upon real or personal security, or both; but no association shall transact any business, except such as incidental and necessarily preliminary to its organization, until it has been authorized by the secretary of state to commence the business of banking, and the secretary of state may withhold from any association his certificate authorizing the commencement of business, whenever he has reason to suppose that the shareholders have formed the same for any other than legitimate objects as contemplated by this chapter.

8. No such association shall have or carry among its assets, at any one time, loans dependent wholly upon real estate security, and they shall only be upon first mortgages, in an amount exceeding one-half of its capital stock and surplus, and in selling or disposing of such loans so made upon real estate security, no such association shall have power to guarantee the payment or collection thereof, and any such guarantee made in violation of this provision shall not be binding upon such association, but shall be, upon the person or officer making the same.

§ 2. AMENDMENT.] That section 3230 of the Revised Codes of North Dakota be and the same is hereby amended so as to read as follows:

§ 3230. POWERS AS TO REAL ESTATE.] Banking associations formed under this chapter shall have power to purchase, hold and convey real estate for the following purposes and no other:

1. Such as may be necessary for its immediate accommodation in the transaction of its business, not exceeding in value thirty per cent of its capital stock.

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

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

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

§ 3. EMERGENCY.] Whereas, an emergency exists in that there

is no adequate provision of law, under which banking associations may loan money upon real estate security within this state, thus depriving these associations of a desirable field of investment, and an unnecessary hardship is imposed upon borrowers who by reason thereof are obliged to procure loans outside the state; therefore, this act shall take effect and be in force from and after its passage and approval.

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

Approved March 9, 1899.

CHAPTER 29.

[S. B. 71.]

ASSESSMENT OF STOCK.

AN ACT to Amend Section 26 of Chapter 126 of the Laws of 1897, Relating to the Assessment of Bank Stock and the Method of Determining the Value Thereof for Purposes of Assessment.

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

§ 1. AMENDMENT.] That section 26 of chapter 126, of the laws of 1897 be and the same is hereby amended to read as follows:

§ 26. BANK STOCK, WHERE AND AT WHAT VALUATION TO BE LISTED.] The stockholders of every bank located in this state, whether such bank has been organized under the banking laws of this state, or of the United States, shall be assessed and taxed on the value of their shares of stock therein, in the county, town, district, city or village where such bank or banking association is located, and not elsewhere, whether such stockholders reside in such places or not; such shares shall be listed and assessed annually, with regard to the ownership and value thereof on the first day of April of each year; to aid the assessor in determining the value of such shares of stock, the accounting officer of every bank shall furnish a statement to the assessor, verified by oath, showing the amount and number of such shares of capital stock of such bank, the amount of its surplus or reserve fund and undivided profits; the amount of its investments in real estate, which real estate shall be returned in the name of the bank and shall be assessed and taxed as other real estate is under this act. The assessor shall deduct the amount of said investment in real estate from the aggregate amount of such capital and surplus and undivided profits, and the remainder shall be taken as a basis for the valuation of such shares of stock in the hands of the stockholders, subject to the provisions of law requiring all property to be assessed at its true and full value. The

shares of capital stock of national banks not located in this state, held in this state, shall not be required to be listed under this act.

§ 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 that, property will be listed and assessed for taxation for the year 1899 which should be controlled by the provisions of this act, and it is necessary, therefore that this act should become a law before the first day of July succeeding its enactment; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 6, 1899.

BOARD OF HEALTH.

CHAPTER 30.

[S. B. 150.]

POWERS AND DUTIES.

AN ACT to Amend Section 243 of the Revised Codes of North Dakota Relating to the Powers and Duties of the State Board of Health.

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

§ 1. AMENDMENT.] That section 243 of the Revised Codes of the State of North Dakota be amended and re-enacted to read as follows:

§ 243. POWERS AND DUTIES OF BOARD.] The board shall have power and it shall be its duty:

1. To fix the time and place of the meetings of the board, subject to the provisions of the last section.
2. To make rules and regulations for the government of the board, its officers and its meetings.
3. To make and enforce all needful rules and regulations for the prevention and cure, and to prevent the spread of any contagious, infectious or malarial diseases among persons and domestic animals.
4. To establish quarantine, and isolate any person affected with any contagious or infectious disease.
5. To isolate, kill or remove any animal affected with contagious or infectious disease.
6. To remove or cause to be removed any dead, decaying or putrid body, or any decayed, putrid or other substance that may endanger the health of persons or domestic animals.
7. To condemn or cause to be destroyed any impure or diseased article of food that may be offered for sale.

8. To superintend the several boards of health in cities, villages and towns and the county boards of health of the several counties.

9. To empower and direct the superintendent of public health to do or cause to be done any or all of the things mentioned in subdivisions four, five, six, seven and eight of this section.

10. To make such rules and regulations as it may deem necessary to govern the preparation of dead bodies for transportation and to govern what classes of dead bodies may be transported and the manner thereof.

§ 2. EMERGENCY.] An emergency exists in that there is no law authorizing said board to make rules regulating the transportation of dead bodies, therefore this act shall be in force and effect from and after its passage and approval.

Approved March 8, 1899.

BUILDING AND LOAN ASSOCIATIONS.

CHAPTER 31.

[H. B. 69.]

REVISED CODES AMENDED.

AN ACT to Amend Section 3203 of the Revised Codes Relating to Building and Loan Associations.

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

§ 1. AMENDMENT.] That section 3203 of the Revised Codes be amended so as to read as follows:

§ 3203. 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 1 to 11, inclusive, of chapter 11, shall be applicable to such corporation. Such corporation may do business outside of this state if it shall have expressed its intentions 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 \$25,000.00, 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 said corporation to any citizen of the state has been fully discharged and not otherwise.

Approved February 28, 1899.

CHAPTER 32.

[H. B. 6.]

RELATING TO BUILDING AND LOAN ASSOCIATIONS.

AN ACT to Amend Sections 3205 and 3209 of the Revised Codes of North Dakota, Relating to Building and Loan Associations.

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

§ 1. AMENDMENT.] That section 3205 of the Revised Codes of North Dakota be and the same is hereby amended to read as follows:

§ 3205. LOANING FUNDS.] The officers may hold stated meetings at which the money in the treasury if equal to the amount of one share in stock in such corporation shall be offered for loan in open meeting and the stockholder who shall bid the highest premium for the preference or priority of loan shall be entitled to receive a loan of the amount of the par value of one share of stock for each share of stock held by him. It is also further provided that any such corporation may loan any of the funds in its treasury, at such rates of premium and interest, and to any stockholder, at such times and in such manner, as shall be fixed or provided for by the terms of the articles of incorporation, charter or by-laws of such corporation, anything to the contrary herein contained, notwithstanding. Any loan that shall have heretofore been made by any building and loan association, organized under the laws of the State of North Dakota and pursuant to the terms of its articles of incorporation or by-laws, are hereby declared to be lawful and are not ultra vires nor usurious. Provided, that the provisions of this act shall not apply to foreign building and loan associations doing business within the state.

§ 2. AMENDMENT.] That section 3209 of the Revised Codes

of North Dakota be and the same is hereby amended to read as follows:

§ 3209. MAY PURCHASE REAL ESTATE.] Every corporation may purchase at any sale, public or private, any real estate upon which it may have a mortgage, judgment, lien or other incumbrance or ground rent, or in which it may have any interest, and may sell, convey, lease or mortgage at pleasure real estate so purchased, and may purchase and hold such real estate and buildings as may be necessary for its immediate accommodation in the transaction of its business.

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

§ 4 EMERGENCY.] There being no adequate law for the loaning of funds or the purchase of real estate by building and loan associations and such a law being necessary, therefore an emergency exists and this act shall take effect and be in force from and after its passage and approval.

Approved February 10, 1899.

CHAPTER 33.

[H. B. 87.]

BUILDING AND LOAN ASSOCIATIONS.

AN ACT to Amend Section 3219 of Revised Codes of 1895, Relating to Building and Loan Associations.

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

§ 1. AMENDMENT.] That section 3219 of the Revised Codes of 1895 be and the same is hereby amended so as to read as follows:

§ 3219. ACTION AGAINST INSOLVENT CORPORATIONS.] If it shall appear to the state examiner from any examination made by him or from the annual report aforesaid, that any domestic or foreign building and loan association is violating the law, or that it is conducting business in an unsafe, unauthorized or dishonest manner, he shall by an order under his hand and seal of office addressed to such corporation direct compliance with the requirements of the law; and whenever such corporation shall refuse or neglect to make such report or account as may be lawfully required, or to comply with such order as aforesaid, the state examiner shall file a statement in writing, with the attorney general, setting forth the facts or particulars in which such alleged violation or refusal consists, which statement shall be prima facie evidence of such violation or refusal, whereupon the attorney general shall institute such proceedings against such corporation as are provided by law in case of insolvent corporations, or such other

proceedings as the occasion may require. It is further provided that in the event of the payment or foreclosure or redemption under foreclosure of any and all mortgages held by such insolvent foreign or domestic corporations, or their assignees, the amount paid for dues and premiums on stock pledged as security for such loan shall be credited on such mortgage and the obligation thereby secured.

§ 2. An emergency having arisen in that no suitable provision has been made for the application of dues and premiums in case of insolvent corporations, this act shall take effect and be in force from and after its passage and approval.

Approved March 8, 1899.

BOUNTIES.

CHAPTER 34.

[S. B. 10.]

WOLF BOUNTIES.

AN ACT to Amend Sections 1 and 2 of Chapter 37 of the Laws of 1897, Providing a Bounty on Certain Stock-Destroying Animals.

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

§ 1. AMENDMENT.] That section 1, chapter 37, of the Laws of 1897, be amended so as to read as follows:

§ 1. WOLF BOUNTIES.] There shall be paid out of the fund in this act hereinafter created for the killing of the following named animals hereinafter killed in the State of North Dakota the following bounties: For each grey or buffalo or prairie wolf, two dollars.

§ 2. AMENDMENT.] That section 2, of chapter 37, of the Laws of 1897, be amended so as to read as follows:

§ 2. SKINS TO BE EXHIBITED.] Any person killing any of the aforesaid animals to obtain the bounty thereon shall within ninety days from the date of the killing, exhibit, or cause to be exhibited the skin and skull of said animal or animals, including the tail and the skin from the forehead, embracing both ears, to the county auditor in said county in which said animal or animals were killed, and shall at the same time file with the auditor an affidavit setting forth that he killed or caused to be killed, the animal or animals from which the skin or skins were taken; that the same were killed within the bounds of the county to whose auditor the same are presented; and the county auditor shall, before issuing the certificate hereafter provided for, require statement of two resident taxpayers of the county that they are acquainted with the person

presenting the skin or skins, and that to the best of their knowledge and belief the animal or animals from which said skin or skins were taken were killed within the limits of said county.

§ 3. PUP WOLVES.] There shall be paid a bounty of one dollar on all pup wolves as provided in section 2 of this act and provided that the body of a full grown female wolf be presented with every five wolf pups, the bounty of two dollars shall be paid on the pups and the old female wolf as provided for in sections 2 and 3 of this act.

§ 4. EMERGENCY.] Whereas, the law covering this subject is in its present form inadequate, an emergency exists; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 8, 1899.

CHAPTER 35.

[H. B. 57.]

PROVIDING FOR SPECIAL TAX.

AN ACT to Amend Section 7 of Chapter 37 of the Laws of 1897, Providing for Special Tax for Payment of Wolf Bounties.

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

§ 1. AMENDMENT.] That section 7, of chapter 37, of the Laws of 1897, be amended to read as follows:

§ 7. It shall be the duty of the state board of equalization, at the time of the levy of the annual tax for the years 1899 and 1900, to levy a special tax of two-tenths mills on the dollar upon the assessed valuation of all property, real and personal, and when collected paid into the hands of the state treasurer who shall at once enter the same into the state bounty fund. Said fund shall be preserved inviolate for the payment of the bounties provided for in this chapter.

Approved March 9, 1899.

BURIAL OF ANIMALS.

CHAPTER 36.

[H. B. 130.]

REQUIRING BURIAL OF ANIMALS.

AN ACT Requiring the Burial of Animals that Die from Disease.

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

§ 1. BURIAL OF ANIMALS.] It shall be the duty of the owner of any cattle or other domestic animals, or any person in the actual charge thereof of such animals, within this state, that die from or on account of any contagious disease (and the death of any such animal from disease shall be presumed to be contagious until the contrary is proven, also any such animal found dead shall be presumed to have died of such disease unless other causes of death are apparent), to cause the same within twenty-four hours after receiving knowledge of the death of such animal to be buried at least four feet below the surface of the ground and covered with dirt to that depth.

§ 2. DUTY OF OVERSEERS AND CORONER.] It is also hereby made the duty of all road and street overseers, under whatever name called, and of the county coroner in such districts where there are no road overseers to bury or cause to be buried all animals dying as in section 1 of this act when the same have been dead for thirty-six hours and are still unburied by the owner or person in charge thereof. The said road or street overseers and the said coroner are authorized to enter upon or into any premises where such dead cattle may be for the purpose of removing the same for burial and may bury the same on such premises, but must not bury said animals within one thousand feet of any dwelling house or barn. The board of county commissioners of such county shall allow such sums for such services as they may deem reasonable and the same shall be paid as other services for said county are paid. It is further provided that the owner of such animal or animals shall be liable to the county for such expenses, to be recovered in a civil action in the same manner as other debts are collected unless the owner pays said burial expenses within thirty days after being notified by the county auditor of the same, and no property except absolute exemptions shall be exempt from sale for the payment of any judgment that may be recovered against said owner, including costs and such attorney's fee as may be allowed by the court, not exceeding the

sum of twenty-five dollars, said attorney's fee to be paid into the general fund of the county.

§ 3. EMERGENCY.] Whereas, an emergency exists in that there is now no adequate provision for the burial of diseased animals, therefore this act shall take effect upon its passage and approval.

Approved March 7, 1899.

BUTCHERS.

CHAPTER 37.

[H. B. 156.]

SHALL KEEP A RECORD.

AN ACT Requiring Butchers Killing Branded Cattle to Keep a Certain Record Pertaining Thereto, Make Report Thereof to the Secretary of State and Prescribing Penalties for the Violation Thereof.

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

§ 1. SHALL KEEP A RECORD.] Any butcher in the State of North Dakota who shall kill within said state any head of neat cattle upon which there is a brand, shall keep a record thereof showing from whom such animal was purchased, when and where purchased, and the place of residence of the person from whom purchased, the sex and age of the animal to the best of his knowledge, and a description of any and all brands thereon, which record shall be open to inspection during business hours by the state's attorney, or person authorized by him, of the county in which such butcher or person killing said cattle shall reside.

§ 2. BLANKS PROVIDED.] It shall be the duty of every butcher killing branded cattle within this state to make a verified report to the secretary of state on the first day of each and every month, the facts required to be made of record by section 1 of this act, upon blank forms which shall be provided for that purpose by said secretary and furnished to butchers upon application therefor without cost.

§ 3. A person engaged in the business of killing any of the animals mentioned in this act and selling the meat thereof, either at retail or wholesale, shall be deemed a butcher.

§ 4. Any person who violates any of the provisions of this act is guilty of a misdemeanor.

Approved March 6, 1899.

CAUCUSES.

CHAPTER 38.

[S. B. 104.]

REGULATING CAUCUSES.

AN ACT Regulating the Holding of Caucuses and Providing for a Penalty for Violation Thereof.

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

§ 1. DELEGATES ELECTED BY BALLOT.] All delegates to an assembly or convention shall be elected by ballot at a caucus to be held for such purpose.

§ 2. BASIS OF REPRESENTATION.] The basis of representation of delegates to an assembly or convention shall be fixed and determined by the authorized county committee of each political party entitled by law to make nominations for office by delegate convention; and such county committee shall divide the county into caucus precincts and establish the boundaries of the same which caucus precincts shall be as nearly as practicable the same as the established voting precincts in its county.

§ 3. POST NOTICE.] Public printed or posted notice of the time and place of holding such caucus shall be given at least ten days before holding the same. Such notice shall contain a brief statement of the object of the caucus and the length of time the polls shall be kept open, and shall be signed by the chairman and secretary of such committee.

§ 4. WHEN CAUCUS SHALL BE HELD.] All caucuses held under the provisions of this act shall be held between the hours of two o'clock p. m. and nine o'clock p. m., and the polls shall be kept open at least one hour.

§ 5. JUDGE AND CLERK.] The electors present at such caucus shall at the opening of the polls elect by viva voce vote a chairman and clerk of such caucus, whose powers and duties shall be the same as the powers and duties of judge and clerk of elections, respectively, in so far as the same shall be applicable.

§ 6. SHALL ISSUE CERTIFICATES.] The chairman and clerk of such caucus shall at the close of the polls immediately canvass the ballots cast for delegate or delegates and shall issue certificates of election to each delegate who shall receive a majority of all the votes cast at such caucus, such certificate shall be signed by said chairman and clerk.

§ 7. DUTY OF CLERK.] It shall be the duty of the clerk of such caucus to carefully keep and preserve the record of the caucus, which shall include a list of the names of each person voting at the said caucus, for six months, and he shall at any time within said six months furnish a certified copy of the record of such caucus upon the request of the chairman of the county or state committee of the political party which said caucus represented.

§ 8. PENALTY.] Any person who shall participate directly or indirectly in the election at caucus of more than one delegate or set of delegates for the nomination of each office to be filled shall be guilty of a misdemeanor and upon conviction thereof shall be fined in a sum not less than fifty or more than two hundred dollars.

Approved March 8, 1899.

CHAPLAIN OF THE SENATE.

CHAPTER 39.

[S. B. 36.]

COMPENSATION.

AN ACT to Fix the Compensation of the Chaplain of the Senate and of the House of Representatives.

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

§ 1. SENATE CHAPLAIN, COMPENSATION.] The compensation of the chaplain of the Senate, and the chaplain of the House of Representatives, shall be three dollars per day, and this act shall apply to the chaplains of the present legislative assembly.

§ 2. EMERGENCY.] Whereas, there is no law providing adequate compensation for chaplains of the legislative assembly; therefore, an emergency exists, and this act shall be in effect from and after its passage and approval.

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

Approved February 7, 1899.

CITIES.

CHAPTER 40.

[S. B. 159.]

RELATING TO ISSUING BONDS.

AN ACT to Amend Sections 2148 and 2321 of the Revised Codes of North Dakota, Relating to the Incorporation and Government of Cities, and Especially Relating to the Issuing of Bonds by Cities, as Said Sections Have Already Been Amended by the Provisions of Chapter 102 of the Laws of 1897, and Also to Amend Section 2309 of Said Revised Codes, Relating to the Manner and Form of Issuing Bonds.

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

§ 1. AMENDMENT.] That sections 2148 and 2321 of the Revised Codes of North Dakota, as amended by the provisions of Chapter 102 of the Laws of 1897, and also section 2309 of said Revised Codes be, and the same are hereby amended so as to read as follows, to-wit:

§ 2148. The city council shall have power:

1. To control the finances and property of the corporation.
2. To appropriate money for corporate purposes only, and provide for the payment of debts and expenses of the corporation.
3. To levy and collect taxes for general and special purposes on real and personal property.
4. To fix the amount, terms and manner of issuing and revoking licenses.
5. To borrow money on the credit of the corporation for corporate purposes and to issue bonds therefor, in such amounts and form and on such conditions as it shall prescribe, but shall not become indebted in any manner or for any purpose to an amount, including existing indebtedness, to exceed five per cent. of the taxable property therein as determined by the last preceding city assessment; provided, that an incorporated city may by a two-thirds vote increase such indebtedness and the amount of its bonds to an amount equal to three per cent on such assessed valuation beyond said five per cent limit; and such city shall provide for the collection of a direct annual tax sufficient to pay the interest of such debt when it falls due, and also to pay and discharge the principal thereof within twenty years after contracting the same; provided, further, that no bonds shall be issued under the provisions of Chapter 28 of the Political Code, either for special or general purposes,

except as hereinafter otherwise provided, unless at an election after twenty days notice in a newspaper published in the city, stating the purpose for which said bonds are to be issued and the amount thereof, the legal voters of said city shall by a majority vote determine in favor of issuing said bonds; provided, further, that the foregoing shall not prevent the raising of funds to pay for the establishment, construction and maintenance of a system of sewerage or the construction or purchase of waterworks for furnishing a supply of water to the inhabitants of such city, or municipal corporation and the issuance of bonds therefor, as provided by section 2321 of the Revised Codes of North Dakota, and provided, further, that the amount of bonds which may be issued under section 2321 shall not be diminished because of the fact that money has been used from the proceeds of bonds issued under the provisions of this section, for aiding in the construction of sewers or of a water plant.

6. To issue bonds in place of, or to supply means to meet maturing bonds, or for the consolidation or funding of the same, or for the consolidation or funding of any floating indebtedness created by such city prior to the second day of November, 1889, and such bonds may be issued upon resolution of the city council, at a general meeting upon a three-fourths vote of all the aldermen elect.

7. To lay out, establish, open, alter, widen, grade, pave or otherwise improve streets, alleys, avenues, sidewalks, wharves, parks and public grounds and vacate the same.

8. To plant trees on the same.

9. To regulate the use of the same.

10. To prevent and remove obstructions and encroachments upon the same.

11. To provide for the lighting of the same.

12. To provide for the cleaning of the same.

13. To regulate the openings therein for the laying of gas or water mains and pipes, and the building and repairing of sewers, tunnels and drains, and erecting gas or electric lights; provided, however, that any company heretofore organized under the general laws of this state or any association of persons organized or which may be hereafter 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 consent of the city council, subject to existing rights, to erect gas or electric light works and lay down pipes or string wires on poles in the streets, or alleys of any city in this state, subject to such regulations as such city may by ordinance prescribe.

14. 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 obstructions.

15. To regulate and prevent the throwing or depositing of ashes,

offal, dirt, garbage or any offensive matter in, and to prevent injury to any street, avenue, alley or public ground.

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

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

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

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

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

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

22. To regulate the numbering of houses and lots.

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

24. 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 twenty years.

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

26. 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.

27. 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.

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

29. To construct and keep in repair culverts, drains, sewers, catchbasins, manholes and cesspools and to regulate the use thereof.

30. 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.

31. 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.

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

33. To license, regulate, tax or prohibit and suppress billiard, 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.

34. To suppress bawdy or disorderly houses, houses of ill-fame or assignation within the limits of the city, and within one mile of the outer boundaries of the city; and also to suppress gaming and gambling houses, 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, prints, pictures or illustrations.

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

36. To provide for the place and manner of sale of meats, poultry, fish, butter, cheese, lard, vegetables and all other provisions, and regulate the selling of the same.

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

38. To provide for and regulate the inspection of meats, poultry, fish, butter, cheese, lard, vegetables, flour, meat and other provisions.

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

40. To provide for the inspection and sealing weights and measures.

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

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

43. To regulate places of amusement.

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

45. To regulate partition fences and party walls.

46. To prescribe the thickness, strength and manner of constructing stone, brick and other buildings and the construction of fire escapes therein.

47. To prescribe the limits within which wooden buildings shall not be erected, or placed, 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 damage and to provide for the re-

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 prescribe penalties therefor.

48. 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; to regulate and prevent the carrying on of manufactories dangerous in causing and promoting fires; to prevent the deposit of ashes in unsafe places; and to cause all such buildings and enclosures as may be in a dangerous state to be put in a safe condition.

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

50. To regulate and prevent the storage of gunpowder, tar, pitch, resin, coal oil, benzine, turpentine, hemp, cotton, nitro glycerine, 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, sky rockets and other pyrotechnic displays.

51. To provide for the inspection of steam boilers.

52. To establish and erect a city jail, house of correction and workhouse for the confinement and reformation of disorderly persons, vagrants, tramps and idle persons and persons convicted of violating any city ordinance, and make rules and regulations for the government of the same, and appoint necessary jailers and keepers.

53. 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.

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

55. To prohibit and punish cruelty to animals.

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

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

58. To erect and establish hospitals and medical dispensaries, and control and regulate the same.

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

60. 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.

61. To regulate, restrain and prohibit the running at large of horses, cattle, swine, sheep, goats, geese and dogs.

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

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

64. 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.

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

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

67. 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.

68. The city council shall have no power to grant the use of, or right to lay down any railroad tracks in any street of the city to any steam, electric or horse railway company except upon a petition of the owners of the land representing more than one-half of the frontage of the street or so much thereof as is sought to be used for railroad purposes.

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

70. 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.

71. 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 the fire limits of the city.

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

73. 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.

74. 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.

75. To redistrict the city into wards and prescribe the boundaries thereof, whenever a census of the city shall show the population to be large enough to require two aldermen more than are in the council at the time of taking such census.

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

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

§ 2309. All bonds which shall be issued under the provisions of this chapter shall be issued in such amounts as the council shall by resolution determine, but in amounts of not less than one hundred dollars each, with interest coupons attached, as directed by the city council, and shall draw interest at a rate not exceeding seven per cent per annum, payable annually or semi-annually as may be determined by the city council and shall be made payable, principal and interest, either in New York City, Chicago, or the city issuing the same; and when no time is prescribed by statute when such bond shall become due and payable, then they shall become due and payable at such time as the city council shall by resolution determine, but in not less than ten years, and not more than twenty years after the date of the issuance thereof; and none of such bonds shall be sold or negotiated at less than their face value.

§ 2321. The city council when authorized by a majority vote of the people at an election held after twenty days notice in a newspaper published in said city, stating the purpose for which said bonds are to be issued and the amount thereof, may issue bonds to an amount not exceeding four per cent on the assessed value of the taxable property of said city, as shown by the last preceding assessment without regard to the existing indebtedness of such city for the purpose of constructing or purchasing water works for furnishing a supply of water to the inhabitants of said city or for the purpose of constructing sewers and for no other purpose whatever. Provided, that at no time shall there be bonds outstanding or unpaid issued under the provisions of this section to a greater amount than four per cent of the assessed valuation of the taxable property of such city as determined by the last preceding assessment; and none of such bonds shall be negotiated or sold for less than its face value; provided, further, that the water works mentioned herein and to be built with the proceeds of such bonds, may be built jointly

or in connection with an electric light or other plant for lighting said city, provided that no more of the bonds herein provided for or the proceeds thereof shall be used for the building, erecting or constructing of such joint plant (light and waterworks) than shall be required to build, erect or purchase such system of waterworks if built, constructed or purchased alone, and none of the proceeds of such bonds shall be used for any part of such joint plant other than the part used as waterworks.

§ 2. EMERGENCY.] Whereas, an emergency exists in that there is no existing law adequately providing for the issuing of bonds by cities; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 8, 1899.

CHAPTER 41.

[H. B. 92.]

SEWER DISTRICTS.

AN ACT Entitled an Act Authorizing Cities to Establish and Maintain a General System of Sewerage, and to Provide for the Costs Thereof, and to Create Sewer Improvement Districts Within the Limits of Such Cities:

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

§ 1. SYSTEM OF SEWERAGE.] The city council shall have power to establish and maintain at any time a general system of sewerage for said city, in such manner and under such regulation as the city council shall deem expedient, and to alter or change the same from time to time as the council shall deem proper; provided, that no action shall be taken for the establishment of such system of sewerage, except upon the affirmative vote of at least two-thirds of the members of the city council; provided, further, that whenever a majority of the residents on any street, or part of street, owning land abutting thereon, shall petition the city council for the construction of a sewer on such street, or part of street, as a part of, or to connect with, such system of sewerage, all measures necessary for the construction of such sewer may be taken by a vote of the majority of the city council.

§ 2. ALTERING OR REPAIRING.] The cost of constructing, altering or repairing any of the sewers or improvements herein provided for or referred to shall be estimated by the city engineer of the city or such other competent engineer as may be selected by the city council for such purpose who shall draw plans and specifications therefor; and such estimate, together with such plans and specifications, shall be filed with the city auditor before any bids

for work thereunder are advertised for, and shall remain on file in his office and shall be opened to the inspection of all persons until after the contract for such work shall be let. The city engineer shall retain a copy of such plans and specifications in his office and shall furnish to any person applying therefor copies of the same, and may charge and receive for such copies at the rate of one dollar an hour for the time necessarily employed in making the same.

§ 3. DUTY OF COUNCIL.] The city council shall then cause proposals for said work to be advertised for in the official paper of such city, once in each week for three consecutive weeks, which advertisement shall specify the work to be done and shall call for bids upon a basis of cash payment for said work. 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 be endorsed upon the outside thereof with a statement as to what work such proposals are for. Each bid shall be accompanied by a bond running to such city in the penal sum of at least fifty per cent of the amount of the bid, which bond shall be executed by the bidder as principal and by two or more good and sufficient sureties, who shall justify in the manner required in arrest and bail, which bond shall be conditioned that the bidder will well and faithfully perform the work bid for, pursuant to the plans and specifications therefor, in case such contract is awarded to him, and that in case of default on the part of the bidder to perform such work as provided in his contract, or in case of his failing to enter into such contract in case the same shall be awarded to him under his bid therefor, that 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 said bidder and his sureties in an action by the city against them on said bond. Such bids shall be opened by the city council at the expiration of the time limited in said notice for receiving the same, or at such other time as the city council may appoint therefor.

§ 4. MAY REJECT BIDS.] The city council shall have the right to reject any and all bids for such work, if in its opinion the interests of the city will be best subserved by so doing; but if all such bids are not rejected, the contract shall then be awarded to the lowest responsible bidder upon the basis of cash payment therefor; provided, that such bidder shall have complied with the foregoing requirements and shall have guaranteed to the satisfaction of the city council the proper and speedy completion of said work. Such contract shall be entered into in the name of the city and shall be executed on the part of the city by the mayor thereof and countersigned by the city auditor with the corporate seal of the city affixed and an attested copy thereof shall be filed in the office of the city auditor. No such contract, except for the construction of a sewer upon petition as provided in section 2315, shall be awarded except upon a two-thirds vote of all the members of the

city council, and there shall be reserved in each contract so let the right of the city council, in case of the improper construction of such work, to suspend work thereon at any time and to relet the contract therefor, or to order a reconstruction thereof, or of any part thereof, improperly done.

§ 5. CONTRACTOR, HOW PAID.] 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.

§ 6. Any such city shall, for the purpose of effectuating the objects enumerated in section 1 of this act, have power to create sewer improvement districts within the limits of such city, which shall be consecutively numbered.

§ 7. SIZE AND FORM OF DISTRICTS.] Such sewer improvement districts shall be of such size and form as the city council, after consultation with the city engineer, shall decide most practicable for the purpose of drainage of such portion of such city as may be included in the respective districts as established by the city council.

§ 8. ASSESSMENT COMMITTEE.] For the purpose of paying for the construction, reconstruction, or extension of such sewers through any street, alley or public place within such district the city council shall provide as follows: The city council shall forthwith upon the letting of any contract under the provision hereof, create, by appointment of three persons from among the citizens of such city, a "special sewerage assessment committee," each member of which shall file with the city auditor a written acceptance of such appointment and take and subscribe an oath faithfully and impartially to discharge the duties of his position as a member of such committee, which oath shall be filed with the city auditor, and one of such persons shall be designated by the city council as the chairman of such committee. The city council may from time to time as occasion may require make new appointments to such committee to fill any vacancy arising therein from death or other cause, and in case any person so appointed neglects or refuses to act, appoint another in his place.

§ 9. DUTY OF COMMITTEE.] It shall be the duty of such committee personally to inspect any and all lots and parcels of land within such sewer improvement district and thereupon assess against all such lots and parcels of land, which will in the opinion of such committee be especially benefited by the construction of such system of sewerage, a special assessment in a sum not exceeding such benefits. Whenever such assessment is made and completed as to all the lots, parts of lots or parcels of land to be benefitted under any contract, the committee shall make or cause to be made a complete list thereof, setting forth the several tracts so assessed and the

amount assessed against each, and cause the same to be published once in each week for three consecutive weeks in the official newspaper of the city together with a notice of the time and place, when and where such committee will meet to hear objections which may be made to any such assessment by any owner or occupant of a tract so assessed, or other person interested in such assessment, or his agent or attorney, and thereupon alter or affirm the same as may in the opinion of the committee be just in the premises. The committee shall then deposit such assessment list with the city auditor who shall forthwith cause the same to be again published once in each week for three consecutive weeks in the official newspaper of the city, with a notice to the persons interested that at the next regular meeting of the city council after the expiration of the time of publication of such notice, giving the date thereof, appeals from the decision of such committee in relation thereto will be heard and determined by the city council.

§ 10. At such meeting of the city council any person so aggrieved by the determination of such committee in regard to any such assessment, and who appeared in person or by his agent or attorney before such committee as hereinbefore provided, if a resident of the city, and all nonresident owners of any property so assessed, whether they appeared before such committee or not, may appear before the city council and present their reasons why the action of such committee should not be affirmed by the city council, and the city council shall then hear and determine such appeals and objections, if any, and may alter or affirm the action of such committee in relation thereto as the city council may deem just in the premises; and shall thereupon cause such list so altered to conform to its action, if any such alteration is made, to be certified as correct by the city auditor and filed in his office; and such assessment, with interest accruing thereon, shall be a paramount lien upon the property within the limits of the sewer improvement district, in which such improvement is made and upon which such assessment is levied from the time such assessment list is approved by the city council, and shall remain a lien until fully paid and shall have precedent over all other liens, except ordinary taxes, and as to such shall be concurrent, and 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 vitiate the lien.

§ 11. ERRORS OR MISTAKES.] In case of omission, errors or mistakes in making such assessment in respect to the total cost of improvements, or in case of deficiency or otherwise, it shall be competent for the council to cause to be made a supplemental assessment to supply such deficiencies, omissions, errors or mistakes, the total of such assessments not to exceed the benefits; such supplemental assessment shall be a lien upon the lots and lands as therein provided for the original assessment, shall be payable in the same manner and in the same installments, shall draw interest at the

same rate, and shall be capable of enforcement in the same manner as herein provided with respect to the original assessment.

§ 12. ANNUAL PAYMENTS.] The special assessment hereinbefore provided for shall be payable in equal annual amounts extending over a period, not exceeding twenty years, and interest at the rate of not to exceed seven per cent per annum on the total unpaid assessments shall be payable annually.

§ 13. AUDITOR SHALL CERTIFY.] The city auditor shall annually, at the time he certifies to the county auditor the amount of city taxes to be levied for the current year, also certify to such auditor a list of the lots and tracts of land specially assessed for such improvement under the provisions of this act, with the proportion of such assessment for such year, and the county auditor shall extend the same upon the tax roll for the current year, and it shall be collected and paid over in the same manner as other city taxes, and when so paid over shall be credited by the city treasurer and auditor to the sewer improvement district fund for which it was collected. In case of error or mistake in making such tax levies, or in case of deficiencies therein or otherwise, it shall be the duty of the city council to make additional levies from time to time to supply such deficiencies and such additional levies shall be certified by the city auditor to the county auditor in like manner as the original levy and the county auditor shall extend such additional levies upon the tax roll for the current year in the same manner as the original levy.

§ 14. DESIGNATION OF DISTRICT.] All such special assessments shall constitute a fund for the payment of the cost of such improvement in the district for which such assessment was made, to be designated as "Sewer Improvement District No. —, Fund," and in anticipation of the payment of such taxes and assessments, the city may issue orders on such fund, payable at such times and in such amounts as, in the judgment of the city council, the taxes and assessment will provide for, which order 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 orders shall state upon their face for what purpose they are issued and what fund they are drawn against, and shall be signed by the mayor and countersigned by the city auditor under the seal of the city and be in denominations of not more than \$1,000. Such warrants may be used in making payments on contracts for making such improvement or may be sold for cash at not less than the par value thereof, and the proceeds used for paying for such improvements. It shall be the duty of the city treasurer to pay such orders and interest coupons as they mature out of such district improvement funds and to cancel them when paid. If any interest shall become due on such orders when there are no funds to pay the same, the city council is hereby authorized to make a temporary loan for the payment thereof.

§ 15. ORDERS OR COUPONS SHALL BE CANCELLED.] Any matured order or interest coupon may be used in the payment of any special assessment on any particular property situated within the district for which such orders or coupons were issued; the orders or coupons so used shall be cancelled and retired by the city treasurer.

§ 16. RIGHTS OF PROPERTY OWNERS.] The owner of any property against which an assessment shall have been made for the cost of any improvement shall have the right to pay the same in full with interest thereon at seven per cent per annum from the time such assessment was made, or after having paid one or more of such assessments and interest he may at any time pay in full the balance of his assessment remaining unpaid, with interest thereon at the rate of seven per cent per annum from the time when the preceding payment became due, and such payment in full shall satisfy and discharge the lien upon his property, and any owner of property against which a special assessment is laid, who shall divide the sum so that the superficial feet on any such improvement are divided into separate lots or parcels may discharge the lien in like manner upon any one or more of such lots or parcels by payment of the amount unpaid thereon calculated by the ratio of the superficial feet of such lot or lots, parcel or parcels, to the superficial feet of the whole lot or lots, parcel or parcels.

§ 17. LETTERS AND FIGURES MAY BE USED.] In all proceedings and advertisements for the levy and collection of such assessments, letters and figures may be used to denote lots, parts of lots, lands and blocks, sections, townships, ranges and parts thereof, the year and the amount.

§ 18. ERROR OR OMISSION SHALL NOT VITIATE.] No error or omission which may be made in the order or in the proceedings of the city council, or of any officer of said city in referring, reporting upon, ordering or otherwise acting concerning any local improvement provided for in this act, or in making any assessment therefor or in levying or collecting such assessment, shall vitiate or in any way effect any such assessment, unless 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.

§ 19. IN CASE OF 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, or of any law of city prior to this act, for any cause whatever, whether jurisdictional or otherwise, shall be set aside, or declared void by any court, the city council shall, without unnecessary delay, cause a reassessment or new assessment to defray the expense of such improvement to be made, whether such improvement was made under this act, or any law of any city prior to this act, 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 when the same shall have been made and confirmed by the city council.

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 said improvement as near as may be.

§ 20. UNPAID PORTIONS OF ASSESSMENTS.] Nothing in this section contained shall affect any assessment made by any city prior to this act becoming operative in such city and all such special assessments or unpaid portions thereof, if any, shall be collected under and in accordance with the provisions of law in force at the time of the levying of such assessment; nor shall it prevent any city from constructing its sewers hereafter under the provisions of article 18 of chapter 28 of the Political Code, or any other law in force governing the construction of sewers, if such city so desires.

§ 21. EMERGENCY.] An emergency exists in this that some of the cities of the state desire to make improvements during the year 1899 under the provisions of this act and it is necessary in order to make advantageous contracts for the material used in such improvements that such cities should enter into a contract therefor long prior to July 1st next; therefore this act shall take effect and be in force immediately after its passage and approval.

Approved March 1, 1899.

CHAPTER 42.

[S. B. 19.]

IMPROVEMENT DISTRICTS.

AN ACT to Amend Sections 1, 6, 7, 8 and 9 of Chapter 41 of the Laws of 1897, of the State of North Dakota, Entitled: "An Act Authorizing Cities to Pave and Otherwise Improve Streets, Alleys and Highways, and to Provide for the Cost Thereof, and to Create Improvement Districts Within the Limit of Such Cities."

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

§ 1. AMENDMENT.] That section 1 of chapter 41 of the Laws of 1897 of the State of North Dakota, is hereby amended to read as follows:

§ 1. CITIES AUTHORIZED.] All cities of this state organized or which may hereafter be organized under the general laws for the

incorporation of cities shall have power to grade, curb, pave, gravel or macadamize and gutter, and to build and maintain sewers in and upon, or cause the same to be done in any manner they may deem proper, any street, highway, avenue or alley within the limits of such city, and may grade, pave, or otherwise as aforesaid improve the whole or any part of any such street, highway, avenue or alley, and to provide for the cost thereof as hereinafter provided.

§ 2. AMENDMENT.] That section 6 of chapter 41 of the Laws of 1897 of the State of North Dakota, is hereby amended to read as follows:

§ 6. COSTS ASSESSED.] The cost of grading, curbing, paving, graveling, macadamizing and guttering, and building and maintaining sewers in and upon any street, avenue, highway or alley within such improvement district shall be assessed as follows: Four-fifths (4-5) of such cost upon the lots and land in such improvement district in proportion to the benefits, and one-fifth of such cost shall be paid by the city; and such payment by the city shall be in satisfaction of all claims against such city on account of paving or otherwise improving alley crossings and street intersections.

§ 3. AMENDMENT.] That section 7 of chapter 41 of the Laws of 1897 of the State of North Dakota is hereby amended to read as follows:

§ 7. Paragraph 1. The city council shall forthwith upon the letting of any contract under the provision hereof create, by appointment of three persons from among the citizens of such city, a "Special Paving Assessment Committee," each member of which shall file with the city auditor a written acceptance of such appointment and take and subscribe an oath faithfully and impartially to discharge the duties of his position as a member of such committee, which oath shall be filed with the city auditor, and one of such persons shall be designated by the city council as chairman of such committee. The city council may from time to time as occasion may require make new appointments to such committee to fill any vacancy arising therein from death or other cause, and in case any person so appointed neglects or refuses to act, to appoint another in his place.

2. It shall be the duty of such committee personally to inspect any and all lots and parcels of land within such improvement district and thereupon assess against all such lots and parcels of land which will in the opinion of such committee be specially benefited by the construction of such improvements, a special assessment in a sum not exceeding such benefits. Whenever such assessment is made and completed as to all the lots, parts of lots or parcels of land to be benefited by the work under any contract, the committee shall make or cause to be made a complete list thereof, setting forth the several tracts so assessed and the amount assessed against each, and cause the same to be published once in each week for three

consecutive weeks in the official newspaper of the city together with a notice of the time and place, when and where such committee will meet to hear objections which may be made to any such assessment by any owner or occupant of a tract so assessed, or other person interested in such assessment, or his agent or attorney, and thereupon alter or affirm the same as may in the opinion of the committee be just in the premises. The committee shall then deposit such assessment list with the city auditor who shall forthwith cause the same to be again published once in each week for three consecutive weeks in the official newspaper of the city with a notice to the persons interested that at the next regular meeting of the city council after the expiration of the time of publication of such notice, giving the date thereof, appeals from the decision of such committee in relation thereto will be heard and determined by the city council.

3. At such meeting of the city council any person so aggrieved by the determination of such committee in regard to any such assessment and who appeared in person or by his agent or attorney before such committee as hereinbefore provided, if a resident of the city, and all non-resident owners of any property so assessed, whether they appeared before such committee or not, may appear before the city council and present their reasons why the action of such committee should not be affirmed by the city council, and the city council shall then hear and determine such appeals and objections, if any, and may alter or affirm the action of such committee in relation thereto as the city council may deem just in the premises; and shall thereupon cause such lists so altered to conform to its action, if any such alteration is made, to be certified by the city auditor as correct and filed in his office; as such assessments with interest accruing thereon, shall be a paramount lien upon the property within the limits of the improvement district in which such improvement is made, and upon which such assessment is levied from the time such assessment list is approved by the city council, and shall remain a lien until fully paid, and shall have precedence over all other liens except ordinary taxes, and as to such shall be concurrent, and shall not be divested by any judicial sale; and any mistake in the description of the property or in the name of the owner shall not vitiate the lien.

§ 4. AMENDMENT.] That section 8 of chapter 41 of the Laws of 1897 of the State of North Dakota is hereby amended to read as follows:

§ 8. In case of omissions, errors or mistakes in making such assessments in respect to the total cost of improvements, or in case of deficiencies or otherwise, it shall be competent for the council to cause to be made a supplemental assessment to supply such deficiencies, omissions, errors or mistakes, the total of such assessments, not to exceed the benefits; such supplemental assessment shall be a lien on the lots and lands as herein provided for the original

assessment, shall be payable in the same manner and in the same installments, draw interest at the same rate and shall be capable of enforcement in the same manner as herein provided with respect to the original assessment.

§ 5. AMENDMENT.] That section 9 of chapter 41 of the Laws of 1897 of the State of North Dakota is hereby amended to read as follows:

§ 9. In all cases where any assessment or a part thereof as to any lot, lots or parcels of land assessed under any of the provisions of this act, or of any law of any city prior to this act, for any cause whatever, whether jurisdictional or otherwise, shall be set aside or declared void by any court; the city council shall, without unnecessary delay cause a reassessment or new assessment to defray the expense of such improvement to be made, whether such improvement was made under this act or any law of any city prior to this act, 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 when the same shall have been made and confirmed by the city council 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 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 lots or parcels 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 said improvements as near as may be.

§ 6. EMERGENCY.] An emergency exists that there is no adequate law on the subject matter of this act as amended; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 1, 1899.

COAL MINES AND WELLS.

CHAPTER 43.

[H. B. 136.]

FILLING OF COAL MINES AND WELLS.

AN ACT Requiring the Owners or Occupants of Lands Within the State to Fill or Cover Securely, or Otherwise Securely Protect Any and All Coal Mines and Wells Situated Thereon.

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

§ 1. MINES AND WELLS NOT IN COMMON USE.] Any individual, firm or corporation owning or occupying lands within this state, shall, within ninety days after this act takes effect, fill with earth or stone, or cover securely with plank of the thickness of two inches, any and all coal mines and wells, situated on such lands, which have become dry, or are not in common use, or which are not otherwise securely protected.

§ 2. DUTIES OF OVERSEERS.] It shall be the duty of the overseer of highways to cause to be filled or covered, as provided in section 1, any and all wells situated on any United States lands, state lands or common school lands within his district and for so doing such overseer shall receive such compensation, payable out of the road and bridge fund of the township, as the township board of supervisors, on presentation of his account therefor, verified by oath, shall deem reasonable.

§ 3. SERVE WRITTEN NOTICE.] It shall be the duty of the overseer of highways, in case any individual, firm or corporation owning or occupying lands within his district, shall neglect or refuse to comply with the provisions of this act, to serve a written notice on such owner or occupant, and if such owner or occupant shall neglect or refuse to comply with the provisions of this act the overseer of highways shall, within thirty days after having given such notice, cause such wells to be filled or covered as provided in sections 1 and 2 of this act, and the owner of such land shall be liable to the township for the cost of such work and material furnished, and the necessary expense incurred in collecting the same to the township, and the township board of supervisors shall take proper proceedings to obtain judgment against the owner or occupant of the subdivision on which such wells are located for the amount expended in filling or covering such wells and all costs which may have accrued in obtaining judgment therefor.

Approved March 9, 1899.

COMMISSIONER OF AGRICULTURE AND LABOR.

CHAPTER 44.

[S. B. 24.]

DUTIES OF COMMISSIONER.

AN ACT to Define the Duties of the Commissioner of Agriculture and Labor.

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

§ 1. DUTIES OF.] It shall be the duty of the commissioner of agriculture and labor to collect, systematize and present in biennial reports to the legislative assembly statistical details relating to all labor departments in the state, such as hours and wages of labor, the estimated number of persons employed by the several industries within the state, the operation of labor saving machinery and its relation to hand labor, a description of the different kinds of labor organizations in existence in this state and what they have accomplished in favor of the class for which they were organized. Such statistics may be classified as the commissioner of agriculture and labor deems best.

§ 2. STATE STATISTICIAN.] The commissioner of agriculture and labor shall be the state statistician. It shall be his duty to obtain from assessors and other officers of the organized counties of the state, and to collate and prepare in tabulated form for reference, statistics showing the assessed valuation of all real and personal property, the acreage and yield of all kinds of grain and tame grasses; the number of horses, cattle, sheep and other live stock and other information pertaining to and showing the condition of the growth, development and resources of the state by counties.

§ 3. SHALL HAVE CHARGE OF EXHIBITS.] He shall have charge of any exhibits of the products and resources of the state which may be made at any fair or exposition held at any point in the United States, and shall have authority to co-operate with any railroad company doing business within the state, and with any persons interested with a view of securing such an exhibit at any fair or exposition held as aforesaid.

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

§ 5. EMERGENCY.] Whereas, an emergency exists in this that there is no adequate provisions of law relating to, specifying or governing the subjects enumerated in the foregoing sections; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 8, 1899.

CHAPTER 45.

[S. B. 105.]

CLERK HIRE.

AN ACT Relating to Clerk Hire in Office of the Commissioner of Agriculture and Labor.

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

§ 1. CLERK HIRE ALLOWED AND FIXED.] The sum of fifteen hundred dollars per annum is hereby allowed and fixed for clerk hire and stenographer for the office of the commissioner of agriculture and labor, which sum shall be paid in monthly payments on the warrant of the state auditor.

§ 2. ANNUAL APPROPRIATION.] There is hereby appropriated out of any money in the state treasury not otherwise appropriated a sum sufficient to carry out the provisions of this act.

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

§ 4. EMERGENCY.] Whereas, an emergency exists in that there are not adequate provisions made for clerk hire and stenographer in the office of the commissioner of agriculture and labor owing to the increased duties imposed therein by reason of the growth and development of the state, this act shall take effect and be in force after its passage and approval.

Approved March 8, 1899.

CONCEALING ESTRAYS.

CHAPTER 46.

[H. B. 180.]

RELATING TO DEFACING BRANDS.

AN ACT to Amend Section 7665 of the Revised Codes of North Dakota, Relating to Concealing Estrays, Lost Goods, and Altering or Defacing Brands.

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

§ 1. AMENDMENT.] That section 7665 of the Revised Codes of North Dakota be amended to read as follows:

§ 7665. Any person who shall attempt to conceal any estray, or any lost goods, found or taken up by him, or alter or deface, or attempt to alter or deface, the mark or brand on any horse, mule, cow, calf, or other neat cattle, or any sheep or swine, the property of another, with the intent thereby to steal the same or to prevent identification thereof by the true owner, or carry said estray or lost goods, or any such animal, beyond the limits of the state, or knowingly permit the same to be done, or shall willfully fail to cause said estray, or lost goods, so found, to be advertised, sold or otherwise dealt with as provided by law, shall be deemed guilty of a felony, and upon conviction thereof, is punishable by imprisonment in the penitentiary not exceeding five years, or by a fine not exceeding five hundred dollars, or by both.

§ 2. EMERGENCY.] Whereas, there is now no law providing an adequate punishment for a person who conceals estrays or lost goods or who defaces or alters marks or brands on domestic animals, an emergency exists; therefore, this act shall take effect from and after its passage and approval.

Approved March 7, 1899.

CONTINUANCE OF CASES.

CHAPTER 47.

[H. B. 79.]

CONTINUANCE OF CASES.

AN ACT to Provide for Continuance of Cases When an Attorney in the Case is a Member of the State Legislature or Any Party to the Pending Suit is a Member of the Legislature.

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

§ 1. CASES, WHEN CONTINUED.] In all suits at law or in equity pending in any court of this state at any time when the legislature is in session, it shall be a sufficient cause for a continuance of said suit to a succeeding general term of said court if it shall appear to the court by affidavit of the attorney that any party applying for such continuance, or any attorney, solicitor or counsel of such party is a member of either house of the legislature and in actual attendance on the sessions of the same at the beginning of the term that said case is set for and that the attendance of such party, attorney, solicitor or counsel in court is necessary to the fair and proper trial of such suit, and on the filing of such affidavit the court must continue such suit to the next succeeding general term of said court. Such affidavit shall be sufficient, if made at any time during the session of the legislature, and before the first day of the term of court at which said case is set for trial showing that at the time of making the same such party, attorney, solicitor or counsel is in actual attendance upon such session of the legislature.

§ 2. EMERGENCY.] Whereas, an emergency exists in this that there is no law which provides for the continuance of cases where the attorney or attorneys engaged therein are members of the legislature; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved February 10, 1899.

COURTS.

CHAPTER 48.

[S. B. 107.]

SECOND JUDICIAL DISTRICT.

AN ACT to Amend Section 404 of the Revised Codes of the State of North Dakota, Relating to the Terms of Court in the Second Judicial District.

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

§ 1. AMENDMENT.] That section 404 of the Revised Codes of the State of North Dakota be amended so as to read as follows:

§ 404. BOUNDARIES AND TERMS OF COURT.] The Second judicial district consists of the counties of Ramsey, Towner, Rolette, Benson, Pierce, Bottineau, McHenry, Ward and Williams and two terms of the District Court shall be held each year at the county seat of such counties as follows:

In Ramsey County commencing on the fourth Monday in January and the first Monday in June.

In Towner County commencing on the first Monday in December and on the first Monday in May.

In Rolette County commencing on the third Monday in December and on the fourth Monday in May.

In Ward County commencing on the fourth Monday in October and on the fourth Monday in April.

In Benson County commencing on the second Monday in June and on the third Monday in November.

In Pierce County, commencing on the first Monday in November and on the fourth Monday in June.

In McHenry County commencing on the second Monday in March and on the third Monday in September.

In Williams County commencing on the fourth Monday in February and on the fourth Monday in September.

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

Approved February 24, 1899.

CHAPTER 49.

[S. B. 173.]

SECOND JUDICIAL DISTRICT.

AN ACT Entitled an Act to Amend Section 404 of the Revised Codes of the State of North Dakota, Relating to the Boundaries of the Second Judicial District and Fixing the Terms of the Court Therein, and Repealing an Act Approved February 24, 1899, Amending Section 404 of the Revised Codes.

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

§ 1. That section 404 of the Revised Codes of the State of North Dakota be amended and re-enacted to read as follows:

§ 404. BOUNDARIES AND TERMS OF COURT.] The Second judicial district consists of the Counties of Ramsey, Towner, Rolette, Benson, Pierce, Bottineau, McHenry, Ward and Williams, and two terms of the District Court shall be held each year at the county seat of each of such counties as follows:

In Ramsey County commencing on the first Monday in January and the first Monday in June.

In Bottineau County commencing on the fourth Monday in January and the third Monday in June.

In Towner County commencing on the first Monday in December and the first Monday in May.

In Rolette County commencing on the third Monday in December and the first Monday in May.

In Ward County commencing on the fourth Monday in October and the fourth Monday in April.

In Benson County commencing on the second Monday in June and the third Monday in November.

In Pierce County commencing on the first Monday in November and the fourth Monday in June.

In McHenry County commencing on the second Monday in March and the third Monday in September.

In Williams County commencing on the fourth Monday in February and the fourth Monday in September.

§ 2. The act approved February 24, 1899, amending section 404 of the Revised Codes, is hereby expressly repealed.

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

Approved March 8, 1899.

CHAPTER 50.

[H. B. 73.]

FOURTH JUDICIAL DISTRICT.

AN ACT Entitled an Act to Amend Chapter 63 of the Session Laws of 1897 of the State of North Dakota, Relating to the Boundaries of the Fourth Judicial District and Fixing the Times of Holding Terms of Court in the Different Counties Thereof.

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

§ 1. AMENDMENT.] That chapter 63 of the Session Laws of 1897 of the State of North Dakota, entitled an act to amend section 406 of the Revised Codes of the State of North Dakota, relating to the boundaries of the Fourth judicial district and fixing the times of holding of terms of court in the different counties thereof, be amended to read as follows:

The Fourth judicial district consists of the Counties of Richland, Ransom, Sargent, Dickey and McIntosh, and two terms of the District Court shall be held each year at the county seat of each of the counties as follows:

In Richland County commencing on the second Tuesday in January and the first Tuesday in July.

In Ransom County commencing on the first Tuesday in June and the fourth Tuesday in November.

In Sargent County commencing on the third Tuesday in June and the second Tuesday in December.

In Dickey County commencing on the fourth Tuesday in May and the second Tuesday in November.

In McIntosh County commencing on the second Tuesday in May and the third Tuesday in October.

Approved March 7, 1899.

CHAPTER 51.

[S. B. 90.]

WHEN ANOTHER JUDGE MAY BE CALLED.

AN ACT Providing for the Calling in of the Judge of Another District for the Trial of Civil Actions in the District Court, on the Ground of Prejudice of the Trial Judge.

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

§ 1. FOR PREJUDICE OR BIAS.] When either party to a civil ac-

tion pending in any of the District Courts of the state shall, after issue joined and before the opening of any term at which the cause is to be tried, file an affidavit, corroborated by the affidavit of his attorney in such cause and that of at least one other reputable person, stating that there is good reason to believe that such party cannot have a fair and impartial trial of said action by reason of the prejudice, bias or interest of the judge of the District court in which the action is pending, the court shall proceed no further in the action, but shall forthwith request, arrange for, and procure, the judge of some judicial district of the state to preside at said trial in the county of the judicial subdivision in which the action is pending. The actual expenses of such judge while in attendance upon the trial of the cause for which the change was had and the extra expense of the court and jury, incurred by reason of said change, shall be paid by the person asking for the change, in advance, or a bond to be approved by the clerk of the District Court given therefor, the amount of said bond being fixed by the presiding judge, provided that not more than one such change shall be granted on the application of either party.

Approved March 1, 1899.

CORPORATIONS.

CHAPTER 52.

[S. B. 49.]

SECRETARY OF STATE SHALL CERTIFY.

AN ACT to Amend Section 2869 of the Civil Code, Providing for the Secretary of State to Making Record of, and Certifying to the State Examiner, when Charter is Granted to Certain Corporations.

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

§ 1. AMENDMENT.] That section 2869 of the Civil Code of the State of North Dakota be and is hereby amended so as to read as follows:

§ 2869. RECORD BY SECRETARY AND CERTIFYING TO STATE EXAMINER.] Upon the filing of any articles of incorporation as in the last section is prescribed, the secretary of state shall cause the same to be recorded in a book to be kept in his office for that purpose to be called the "Book of Corporations," with the date of filing. And upon filing and recording of any articles of incorporation of any bank, building and loan association, or any moneyed corporation subject to examination by the state examiner, the secretary

of state shall forthwith certify to the state examiner the fact that articles of incorporation have been filed, giving the date of such filing.

§ 2. EMERGENCY.] Whereas, an emergency exists in that there is no provision whereby the state examiner is informed of the incorporation of associations coming under his supervision; therefore, this act shall take effect and be in force immediately after its passage and approval.

Approved March 8, 1899.

CHAPTER 53.

[H. B. 194.]

REAL ESTATE HOLDINGS LIMITED.

AN ACT to Amend Section 2859, Chapter 11, of the Revised Codes of North Dakota.

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

§ 2859. RELIGIOUS AND CHARITABLE, LIMITED.] No corporation or association for religious or charitable purposes shall acquire or hold real estate in this state of greater value than one hundred thousand dollars.

Approved March 9, 1899.

CHAPTER 54.

[S. B. 101.]

LEGALIZING ACTS OF NOTARIES PUBLIC.

AN ACT Legalizing the Acts of Officers and Stockholders of Corporations as Notaries Public in Cases Where the Corporation is Interested.

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

§ 1. OFFICIAL ACTS VALID IN CERTAIN CASES.] That all acknowledgments, affidavits or protests heretofore taken or made by any officer or stockholder of any corporation, who was at the time of taking the same, a duly appointed and qualified notary public in this state or the former Territory of Dakota; and all other official acts of said notary public are hereby declared to be valid, notwithstanding the corporation, of which said notary was an officer or stockholder, was interested in or a party to the instrument acknowledged or protested, or that the affidavit was one that was required

to be taken by some person on behalf of, or against, such corporation, or that any other official act performed by said notary, was one that in some manner related to the business of such corporation.

§ 2. EMERGENCY.] An emergency exists in that the acknowledgment of a large number of deeds conveying lands by corporations in this state to purchasers thereof, may be defective by reason that the acknowledgments thereto were taken by a notary public who, at the time of taking said acknowledgments, was an officer or stockholder of the corporation conveying said land, and for that reason the record thereof is not notice to subsequent purchasers or encumbrancers; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 8, 1899.

CHAPTER 55.

[S. B. 23.]

JUDGMENT OF DISSOLUTION.

AN ACT Providing for Judgment of Dissolution in Certain Actions Against Corporations.

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

§ 1. JUDGMENT OF DISSOLUTION.] In any action now or hereafter pending against a corporation organized under the laws of the Territory of Dakota, or of this state, in which a receiver has been appointed, and the property of the corporation taken into the custody of the court, if it shall appear that such corporation has abandoned and forfeited its franchise as provided in chapter 73 of the Laws of 1897, the court shall not dismiss such action, but shall give judgment and distribute the property of such corporation as provided in section 5779 of the Revised Codes.

§ 2. EMERGENCY.] Whereas, an emergency exists in that there is no provision of law for enforcing the forfeiture provided in chapter 73 of the Laws of 1897; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved February 24, 1899.

COUNTY AUDITORS.

CHAPTER 56.

[H. B. 104.]

SALARY OF COUNTY AUDITORS.

AN ACT to Amend Section 2073 of the Revised Codes of the State of North Dakota, Providing for the Salary of County Auditors.

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

§ 1. AMENDMENT.] That section 2073 of the Revised Codes of the State of North Dakota be amended so as to read as follows:

§ 2073. 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: He shall be entitled to receive not to exceed seven hundred and fifty dollars in counties where the assessed valuation does not exceed five hundred thousand dollars; eight hundred and fifty dollars in counties where the assessed valuation exceeds five hundred thousand dollars but does not exceed one million dollars; one thousand dollars in counties where the assessed valuation exceeds one million dollars but does not exceed one million five hundred thousand dollars; twelve hundred dollars in counties where the assessed valuation exceeds one million five hundred thousand dollars but does not exceed two million dollars; fourteen hundred dollars where the assessed valuation exceeds two million dollars but does not exceed four million dollars; fifteen hundred dollars in counties where the assessed valuation exceeds four million dollars but does not exceed five million dollars; sixteen hundred dollars in counties where the assessed valuation exceeds five million dollars but does not exceed six million dollars; seventeen hundred dollars in counties where the assessed valuation exceeds six million dollars but does not exceed seven million dollars; eighteen hundred dollars in counties where the assessed valuation exceeds seven million dollars but does not exceed eight million dollars; nineteen hundred dollars in counties where the assessed valuation exceeds eight million dollars but does not exceed nine million dollars; two thousand dollars in counties where the assessed valuation exceeds nine million dollars; provided, that no county auditor shall receive for his personal services an amount to exceed two thousand dollars in any one year.

§ 2. TAKE EFFECT.] This act shall take effect and be in force

from and after the expiration of the term of the present county auditors.

Approved March 8, 1899.

COUNTY BOUNDARIES.

CHAPTER 57.

[H. B. 175.]

TO SETTLE DISPUTES.

AN ACT to Settle Disputes as to County Boundaries and to Confirm the Acts of Officials in Counties that Have Exercised Jurisdiction Over Territory not Clearly Within County Boundaries.

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

§ 1. JURISDICTION OF OFFICIALS.] That all territory within the State of North Dakota over which any county has exercised jurisdiction in civil and criminal matters and which has for all intents and purposes been treated as a portion of such county for not less than two years last past, shall be and the same is hereby declared a part of such county, and all of the official acts and doings of all state, county, township, school, district or other officials within such county in the exercise of such jurisdiction are hereby ratified in so far as to give such acts the same validity as they would have had if such territory had been a part of such county when such acts were performed.

§ 2. EMERGENCY.] This act shall take effect immediately upon its passage and approval for the reason that an emergency exists for settling the jurisdiction of counties over disputed territories within the state.

Approved March 9, 1899.

COUNTY BOARDS OF HEALTH.

CHAPTER 58.

[S. B. 62.]

COUNTY BOARDS OF HEALTH.

AN ACT to Amend Sections 245, 249 and 252 of the Revised Codes of the State of North Dakota, Relating to County Boards of Health.

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

§ 1. AMENDMENT.] That sections 245, 249 and 252 of the Revised Codes of North Dakota be, and the same are hereby amended and re-enacted so as to read as follows:

§ 245. BOARD, HOW COMPOSED.] There is hereby established a county board of health, composed of a president, vice-president and superintendent. The state's attorney in each county shall be president of the county board. The board of county commissioners shall appoint some suitable person, who is a resident of the county, vice-president; and it shall also appoint a superintendent of public health for the county, who shall be learned in medicine and hold a license to practice medicine and surgery within the state, and the several persons thus appointed shall hold their offices for one year and until their successors are elected and qualified.

§ 249. POWERS AND DUTIES OF SUPERINTENDENT.] The county superintendent of health shall have charge of and superintend, subject to the approval of the board of which he is a member and the supervisory control of the state board of health and the superintendent of public health, all the matters and things mentioned in subdivision 4 of section 243 within his county, and in case of immediate danger of the health of persons by reason of any contagious or infectious disease, he may act as in his judgment he deems best, without consultation with the other members of the board for the prevention of such danger, and shall immediately report such action to the president of the board and to the superintendent of public health.

§ 252. VACANCIES.] In case a vacancy shall occur in the office of vice-president or superintendent, such vacancy shall be filled by appointment by the governor, and the person so appointed shall hold the office for the unexpired term. In case a vacancy occurs in the office of vice-president or superintendent of health in any county board of health, the president of such county board of health shall appoint some suitable person to fill such vacancy, and the person

so appointed shall hold office until a successor to such office has been appointed by the board of county commissioners.

§ 2. REPEAL.] All acts and parts of acts in conflict with these acts are hereby repealed.

Approved February 24, 1899.

COUNTY COMMISSIONERS.

CHAPTER 59.

[H. B. 119.]

FURNISHING OF SUPPLIES.

AN ACT to Amend Sections 1906 and 1925 of the Revised Codes of North Dakota, Relating to Powers of the Board of County Commissioners in Furnishing of Blanks, Blank Books, and Other Stationery for the Use of County Officers.

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

§ 1. AMENDMENT.] That section 1906 of the Revised Codes be amended so as to read as follows:

§ 1906. In addition to the powers hereinbefore mentioned such board shall have power:

1. To levy a tax not exceeding the amount authorized by law and to liquidate indebtedness.
2. To audit the accounts of all officers having the care, management, collection or disbursement of any money belonging to the county or appropriated for its benefit.
3. To construct and repair bridges, and to open, lay out, vacate and change highways in the cases provided by law; to establish election precincts in its county and to appoint the judges of election in cases provided by law; and to equalize the assessments of the county in the manner provided by law.
4. To furnish the necessary blank books, blanks and stationery for the clerk of the District Court, county auditor, register of deeds, county treasurer, county judge, sheriff and state's attorney of its county, to be paid out of the county treasury; also a fire proof safe, when in its judgment the same shall be advisable, in which to keep all the books, records, vouchers and papers pertaining to the business of the board; provided, that the county auditor, county treasurer, and the chairman of the board of county commissioners together shall constitute a committee, empowered and required to purchase and provide all necessary blanks, books and other stationery for the use of all county officers in their official capacity.

5. To do and perform such other duties as now are or may hereafter be prescribed by law.

§ 2. AMENDMENT.] That section 1925 of the Revised Codes be amended so as to read as follows:

§ 1925. The board shall cause an advertisement for bids for the erection of such building to be published for at least three months prior to the opening of the bids in some newspaper published in the county and in such other newspaper in the state and for such period as the board may deem advisable. Such advertisement shall state where the plans and specifications may be examined and the time allowed for the completion of such building, also the time when the bids will be opened and passed upon by the board, which must be at one of its regular sessions. The lowest responsible bid must in all cases be accepted, and the contracts for such buildings shall be so conditioned that not more than one-half of the payment for the same shall be made until the contract shall be executed and the buildings completed to the satisfaction and acceptance of the board. Such board may further require a bond to accompany each bid, conditioned that the bidder will enter into a contract with approved sureties for the performance of the work in accordance with the plans and specifications in case his bid is accepted. The provisions of this section shall apply to all contracts for fuel and all other articles for the use of the county, or labor to be performed therefor, when the amount to be paid for the same during any year exceeds the sum of one hundred dollars; provided, that in all such cases advertisement for bids therefor need not be for more than three consecutive weeks in some weekly newspaper published in such county.

§ 3. EMERGENCY.] Whereas, an emergency exists in that there is a conflict in the present laws relating to the duties of the board of county commissioners and it will be necessary for the purchasing committee created by this act to purchase supplies prior to July 1, 1899; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 9, 1899.

CHAPTER 60.

[S. B. 165.]

DUTIES OF BOARD.

AN ACT to Amend Sections 2533, 2534 and 2535 of the Revised Codes of the State of North Dakota, Relating to the Division of Organized Townships and Prescribing the Duties of the Board of County Commissioners in Relation Thereto.

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

§ 1. AMENDMENT.] That sections 2533, 2534 and 2535 of the

Revised Codes of the States of North Dakota be and the same are hereby amended to read as follows:

§ 2533. CIVIL TOWNSHIPS, HOW FORMED.] Any congressional township or fraction thereof, bordering on a lake, containing more than eighteen sections of land, which has residing therein one hundred or more inhabitants, and forms a part of an organized civil township may be set apart and organized as a separate civil township in the manner herein provided and when duly organized shall have the same powers and privileges and be subject to the same liabilities and restrictions as other civil townships except as herein otherwise provided; but no civil township shall be so formed under the provisions of this article, as to leave residing in the township from which it is separated less than one hundred inhabitants. Provided, such separation shall be made only upon congressional township lines.

§ 2534. PETITION COUNTY COMMISSIONERS. NOTICE PUBLISHED.] The legal voters residing in such congressional or fractional township bordering on a lake, may petition the board of county commissioners of the county in which it is situated, at any regular meeting of said board, to be set off as a separate civil township, upon at least thirty days previous notice thereof, and of the time and place of application, which notice shall be published at least three times in the newspaper in which the proceedings of said board are published, or, if there is none such, notice shall be posted in at least three public places in the proposed new township, and as many more elsewhere in the township effected thereby, one of which shall be at the place where the last election was held.

§ 2535. WHEN BOARDS SHALL SET OFF TOWNSHIPS. ELECTION.] Upon presentation of such petition signed by a majority of the legal voters residing within such proposed township and due proof of notice as herein provided and of the further fact that the territory has the requisite number of inhabitants, and the petition the requisite number of competent signers as aforesaid, the board shall proceed to set off said congressional or fractional township bordering on a lake as a separate civil township and constitute the same an election precinct, and designate the place of holding elections and the time and place of holding the first township meeting therein, the name adopted of such township, and notice thereof shall be given as in other cases. The board of county commissioners, within thirty days after such election, shall meet as a board of arbitrators together with the county auditor and judge of the county court and determine, subject to appeal to the District Court, upon a just and fair distribution of the property and apportionment of the debt of said township between the townships so formed from said original township.

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

§ 3. EMERGENCY.] Whereas, there is now no adequate laws providing for the division of civil townships, an emergency exists;

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

Approved March 8, 1899.

CHAPTER 61.

[H. B. 101.]

REWARD FOR CRIMINALS.

AN ACT Authorizing Board of County Commissioners to Offer Reward for the Apprehension and Conviction of Certain Criminals.

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

§ 1. MAY OFFER REWARD.] The board of county commissioners of any county of this state may offer a reward of a sum not exceeding fifty dollars nor less than ten dollars for the apprehension and conviction of each person violating any of the provisions of section 7589 of the Revised Codes, or who takes by fraud or stealth any wheat, oats, rye, barley, flax or other grain, or any other property, the property of another, with intent to deprive the owner thereof.

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

Approved March 9, 1899.

COUNTY COURTS.

CHAPTER 62.

[S. B. 139.]

INCREASED JURISDICTION.

AN ACT to Amend Section 6615 of the Revised Codes of 1895, Providing for the Compensation of Judges of County Courts Having Increased Jurisdiction.

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

§ 1. AMENDMENT.] That section 6615 of the Revised Codes of 1895 be amended to read as follows:

§ 6615. As compensation for their services under this act there shall be allowed and paid to the judges of county courts having civil and criminal jurisdiction in all counties having a population of

18,000 inhabitants the sum of \$2,500 per annum, and in counties having less than 18,000 inhabitants the sum of \$1,000 per annum, payable monthly by such county, which said sums shall cover all services under the prohibition law.

§ 2. EMERGENCY.] Whereas, an emergency exists that there is a conflict of law as to the judge of a county court with increased jurisdiction being entitled to receive the fees under the prohibition law; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 8, 1899.

COUNTY DEPOSITORIES.

CHAPTER 63.

[H. B. 49.]

RELATING TO COUNTY BALANCES.

AN ACT to Amend Section 1943 of the Revised Codes of North Dakota, Relating to Balances to be Kept by County Treasurers in County Depositories.

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

§ 1. AMENDMENT.] That section 1943 of the Revised Codes of North Dakota be and the same is hereby amended to read as follows:

§ 1943. TWO OR MORE DEPOSITORIES. DUTY OF TREASURER.] In case two or more banks are designated as depositories the county treasurer shall as far as practicable, keep in each of the several depositories equal balances at all times; provided, that in counties where two or more banks are designated as depositories, the amount deposited in any bank shall not exceed the capital of such bank; provided, further, that in counties where the county deposits exceed the capital of the banks in the county, then the county commissioners shall deposit the funds of the county, in the banks of the county, upon their giving a bond according to law.

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

§ 3. EMERGENCY.] Whereas, an emergency exists in that the law, as it now stands, is ambiguous, this act shall take effect and be in force from and after its passage and approval.

Approved March 9, 1899.

CLERK OF DISTRICT COURT.

CHAPTER 64.

[Sub. for H. Bs. 89 and 98.]

SALARY AND FEES.

AN ACT Fixing the Salary of Clerks of the District Court in the State of North Dakota, Providing a Fund to Reimburse the Counties of the State for the Same, and to Repeal Sections 2061 to 2067, Both Inclusive, of the Revised Codes of the State of North Dakota for the Year 1895, the Same Being All of Article 2 of Chapter 27 of the Political Code Therein.

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

§ 1. THE SALARY OF THE CLERK OF THE 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 four hundred dollars in counties where the assessed valuation does not exceed five hundred thousand dollars; five hundred dollars in counties where the assessed valuation exceeds five hundred thousand dollars but does not exceed one million dollars; six hundred dollars in counties where the assessed valuation exceeds one million dollars but does not exceed one million five hundred thousand dollars; seven hundred dollars in counties where the assessed valuation exceeds one million five hundred thousand dollars but does not exceed two million dollars; eight hundred dollars in counties where the assessed valuation exceeds two million dollars but does not exceed three million dollars; nine hundred dollars where the assessed valuation exceeds three million dollars but does not exceed four million dollars; one thousand and one hundred dollars where the assessed valuation exceeds four million dollars but does not exceed five million dollars; twelve hundred dollars where the assessed valuation exceeds five million dollars but does not exceed six million dollars; thirteen 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 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 act to be paid monthly from the general county fund on the warrant of the county auditor.

§ 2. CLERK TO KEEP FEE BOOK. MONTHLY REPORT TO COUNTY AUDITOR.] Each clerk of the District Court shall keep a book to be provided by the county and which shall be a part of the public record of his office, in which shall be entered each item of fees for services rendered and shall within three days after the close of each calendar month and also at the close of his term of office, file with the county auditor a statement under oath showing the amount of fees which he has received as such officer since the date of his last report, and shall within three days deposit with the county treasurer the total sum of such fees, which sum so deposited shall be placed to the credit of the special salary fund. Any clerk of the District Court who shall neglect or omit to charge or collect the fees charged in section 6 of this act to be charged and collected by him for services rendered, or shall fail or neglect to keep a record of the same, or to make a correct statement thereof to the county auditor, with intent to evade the provisions of this act, shall be deemed guilty of a misdemeanor.

§ 3. DEPUTY CLERK OF THE DISTRICT COURT.] If in the judgment of the board of county commissioners of any county in the state it shall be deemed necessary for the prompt and accurate dispatch of business in the office of the clerk of the District Court that a deputy or clerks be employed therein, they 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 general salary fund by warrant of the county auditor; provided, that the officer in whose office such deputy or clerks are to be employed shall have the sole power of appointing the same and removing them at pleasure; provided, further, that any officer who shall receive and appropriate to his own use and benefit any part of the salary allowed any clerk employed under the provisions of this act, shall be guilty of a misdemeanor.

§ 4. EXCESS OF FEES, HOW DISPOSED OF.] In case the fees paid into the county treasury in any calendar year by the clerk of the District Court shall exceed the salary as fixed herein, and the compensation of a deputy or clerks as herein provided, then and in that case the county treasurer and county auditor of the county in which such excess shall have occurred shall within thirty days thereafter credit such excess to the general fund of the county.

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

1. In actions for the recovery of money only, in which judgment is entered by default, for all services prior to execution, three dollars.

2. In all other actions in which judgment is entered by default, for services prior to execution, five dollars.
3. In special proceedings, for all services prior to appeal, five dollars.
4. In actions in which an issue of fact is tried, for all services prior to execution, seven dollars.
5. In questions in which only a question of law is tried, the fees shall be the same as on default in like actions.
6. In addition to the foregoing fees, for all services growing out of a provisional remedy, there shall be charged and paid at the time the remedy is applied for, for the first paper in connection therewith filed, two dollars and fifty cents.
7. For issuing execution in any action, one dollar.
8. For filing and indexing a mechanic's lien, one dollar.
9. For filing and indexing any other paper authorized to be filed in his office, but not connected with any civil action or proceeding, fifty cents.
10. For making certified abstract of any judgment or certified copy of any judgment, order or other paper filed or recorded in his office, for the first four folios, fifty cents; for each additional folio, ten cents.
11. For entering satisfaction of any judgment or lien, fifty cents.
12. For taking declaration of intention to become a citizen of the United States and making a certified copy of the record thereof, one dollar.
13. For final naturalization papers, including copy of the record thereof, one dollar.
14. For each additional copy of either of such citizen's papers, fifty cents.
15. For entering and indexing commission of notary public, fifty cents.
16. For taking an acknowledgment or administering an oath, twenty-five cents.
17. For recording and indexing any paper not filed in an action or proceeding, for the first four folios, fifty cents; for each additional folio, ten cents.
18. For a certificate of the official capacity of a notary public, or other officer, fifty cents.
19. For certifying an abstract of real property as to judgments and liens, for each person named in the abstract as to whom search is made, ten cents.
20. For receiving, keeping and paying out money in pursuance of law or an order of court, one per cent of the amount, which shall be paid by the person receiving such money.
21. For issuing commission to take depositions, one dollar.
22. For certifying the record on appeal to the Supreme Court, or to the District Court of any other county and transmitting the same, five dollars.

23. For all services on remittitur from Supreme Court, two dollars.

24. For taking depositions, per folio, ten cents.

25. For making certified transcripts of any judgment, one dollar.

26. For filing and docketing transcript of judgment from justice's court, one dollar.

§ 6. DEPOSIT FOR FEES TO BE REQUIRED.] No civil action, appeal or proceeding shall be entered in the clerk's office of said District Court until the person desiring such entry shall deposit with the clerk the sum of five dollars on account of fees in the case, and out of which the clerk shall satisfy the fees due in such case as they accrue, and whenever said sum or any other deposit is exhausted, said clerk may require as a condition for further entries, or clerk's fees, an additional deposit of two dollars for the purpose and applications as aforesaid, any balance remaining with said clerk after such application and the determination of the case shall be returned to the party depositing the same, his agent or attorney.

§ 7. REPEAL.] That sections 2061 to 2067, both inclusive, of the Revised Codes of the State of North Dakota for the year 1895, the same being all of article 2 of chapter 27 of the Political Code therein, and all acts and parts of acts in conflict herewith be and the same are hereby repealed.

§ 8. EMERGENCY.] Whereas, by existing law the various counties of the state are not sufficiently reimbursed for the salaries paid to clerks of the District Court and it is essential that said counties be relieved as soon as practicable; therefore, an emergency exists and this act shall take effect and be in full force and effect from and after its passage and approval.

Approved March 8, 1899.

CONSERVATOR FOR DRUNKARDS.

CHAPTER 65.

[H. B. 214.]

POWERS AND DUTIES.

AN ACT to Provide for the Appointment of a Conservator for Drunkards and Spendthrifts and their Powers and Duties.

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

§ 1. HABITUAL DRUNKARDS.] When it is represented to the county court upon verified petition of any relative or friend that any person is an habitual drunkard or spendthrift or from any cause mentally or otherwise incompetent to manage his property, the

judge must cause such person to be cited as in other cases, except that the time of service may be the same as upon a motion, and all the provisions of chapter 7 of the Revised Codes of North Dakota relating to guardian and ward where applicable shall apply in the appointment of said conservator and as to his powers and duties.

§ 2. EMERGENCY.] Whereas, there is now no law providing for the appointment of a conservator for drunkards and spendthrifts or defining their powers and duties, an emergency exists; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 8, 1899.

CONTINGENT FUND.

CHAPTER 66.

[H. B. 38.]

ANNUAL CONTINGENCY FUND.

AN ACT to Provide an Annual Contingency Fund, to be Placed at the Disposal of the Governor.

Whereas, It was pointed out in the inaugural address of the late Governor Frank A. Briggs and again in the recent address delivered before this body by his excellency, Governor Fred B. Fancher, that unforeseen contingencies may arise when the interests of the state would be best subserved by the provision of a fund to be available at the discretion of the executive, and

Whereas, The lamentable want of available money to defray the cost of defending the state's interests in the recent railway rate cases has amply illustrated the fact that such contingencies are of actual occurrence and unquestioned embarrassment to the executive and to the state, therefore,

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

§ 1. APPROPRIATION. CONTINGENCY FUND.] There is hereby appropriated out of any moneys in the state treasury not otherwise appropriated, at the date on which this act becomes operative and annually on the first Tuesday in January thereafter, the sum of five hundred dollars for the establishment and maintenance of a contingency fund to be drawn upon by the state auditor at the direction of the executive, for the transaction of such state business or the payment of such state obligations as are not otherwise provided for, and as, in the opinion of the executive are wise or necessary; provided, that if on the first Tuesday in January of any year there

shall remain a balance of cash on hand in such fund, then only such sum shall be appropriated in that year as shall be necessary to complete the total of five hundred dollars.

§ 2. **MONEYS, HOW ACCOUNTED FOR.]** The governor shall, in all cases when directing the issuance of any warrant upon the contingency fund hereinbefore provided, file with the state auditor a written and itemized statement of the material, services or other consideration in payment of which such warrant is ordered drawn, together with the names of person or persons in whose favor the warrant is so ordered and shall certify that the material, services or other consideration therein named are necessary and proper matters for settlement from this fund, and that the amounts charged therefor are proper and right; and the auditor shall file such statement and certificate as his authority for issuing the warrant therein directed.

§ 3. **EMERGENCY.]** Whereas, an emergency exists in that no such fund is now available and that it may be needed at any time, the provisions of this act shall be in effect from and after the date of its passage and approval.

Approved March 7, 1899.

COUNTY TREASURERS.

CHAPTER 67.

[H. B. 106.]

SALARY OF COUNTY TREASURERS.

AN ACT to Amend Section 2080 of the Revised Codes of the State of North Dakota, Providing for the Salary of the County Treasurers.

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

§ 1. **AMENDMENT.]** That section 2080 of the Revised Codes of North Dakota be amended so as to read as follows:

§ 2080. **SALARY, HOW DETERMINED.]** The county treasurer of each county shall be allowed at the time of his settlement all sums paid by him for printing such advertisements as he is required to have done, at the rates prescribed by law; and all sums paid by him for blank books and stationery necessarily used in his office, and shall receive for his services such sums as may be allowed by law for the collection and paying over all moneys collected or received by him for the leasing, sale or interest on school or other state lands, and all other public moneys by him collected or received as such county treasurer for each years services as follows: Four and one-half cents on each dollar for the first ten thousand dollars;

three cents on each dollar on the next twenty thousand dollars; and two cents on each dollar on all sums over thirty thousand dollars and less than sixty thousand dollars, and one cent on each dollar on sums over sixty thousand dollars, to be paid on the warrant of the county auditor out of the salary fund, and whenever the salary fund shall be exhausted the auditor shall draw his warrant on the general fund; provided that no compensation shall be allowed the treasurer for any moneys received from his predecessor in office, or his legal representatives, nor on moneys received from the current school funds of the state arising from the lease or sale of such lands; provided that no treasurer 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 in excess of the salary as limited by this article, shall be paid by the county treasurer at the end of each month into the revenue fund of the county; provided further, that whenever the salary of the county treasurer is limited to a fixed sum by the second proviso of this section, such sum shall be paid in the man-

ner provided above at the end of each month in twelve equal installments and no treasurer receiving pay for his services under said second proviso, whose salary cannot be certainly and exactly fixed at the beginning of his official year, shall receive more than one twelfth of his annual salary at the end of each month, as carefully estimated and recorded by the board of county commissioners at its January meeting each year; and the balance of the year's pay found to be due the treasurer shall be paid to him on the computation by such board of commissioners at its next January meeting.

Approved March 9, 1899.

COUNTY JUDGE.

CHAPTER 68.

[Sub. for H. B. 91.]

SALARY OF COUNTY JUDGE.

AN ACT Fixing the Salary of County Judge of the Different Counties and Mode of Determining the Same.

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

§ 1. SALARY OF COUNTY JUDGE.] As compensation for his services the county judge 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 and under one million five hundred thousand dollars, four hundred dollars; over one million five hundred thousand and under two million dollars, five hundred dollars; over two million dollars and under two million five hundred thousand, seven hundred dollars; over two million five hundred thousand dollars and under four million five hundred thousand dollars, one thousand dollars; over four million five hundred thousand dollars and under seven million dollars, fourteen hundred dollars; over seven million and under eight million dollars, fifteen hundred dollars; and in all counties having a valuation over eight million dollars, eighteen hundred dollars, and no more for his personal services; provided that the salary of county judge in counties having increased jurisdiction shall not be affected by the provisions of this act.

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

Approved March 6, 1899.

CHAPTER 69.

[H. B. 105.]

CLERK HIRE FOR COUNTY JUDGE.

AN ACT to Amend Section 2069 of the Revised Codes of the State of North Dakota, Providing for Clerk Hire in the Office of County Judge.

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

§ 1. AMENDMENT.] That section 2069 of the Revised Codes of the State of North Dakota be amended so as to read as follows:

§ 2069. PROVISION FOR DEPUTIES. SALARIES.] If in the judgment of the board of county commissioners of any county it is deemed necessary for the prompt and accurate dispatch of the business in the office of county judge that deputies or clerks be employed therein, it shall by resolution fix the number of clerks to be employed and amount of compensation to be paid such deputies or clerks, which compensation shall be paid monthly from the special salary fund, when the salary fund is exhausted then out of the general fund, by warrant; provided, that the officer in whose office such deputies or clerks are to be employed shall have the sole power of appointing and removing them at pleasure. In no case shall the county judge be allowed for clerk hire unless such services have been actually rendered. 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.

Approved March 7, 1899.

COUNTY SEATS.

CHAPTER 70.

[H. B. 53.]

REMOVAL OF COUNTY SEATS.

AN ACT to Amend Section 1881 of the Revised Codes of the State of North Dakota of 1895, Relating to the Procedure for the Removal of County Seats.

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

§ 1. AMENDMENT.] That section 1881 of the Revised Codes of the State of North Dakota of 1895 be and the same is hereby amended to read as follows:

§ 1881. If the petition is signed by qualified electors of the county equal in number to at least three-fifths of all the votes cast in the county at the last preceding general election, the board must, at the next general election, submit the question of removal to the electors of the county.

Approved March 9, 1899.

DAMS.

CHAPTER 71.

[H. B. 71.]

MAINTENANCE OF DAMS.

AN ACT to Provide for the Construction and Maintenance of Dams Across Running Streams for Use in Operating Mills and for Irrigation Purposes.

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

§ 1. DAMS FOR MILLS OR IRRIGATING PURPOSES.] When any person may be desirous of erecting and maintaining a dam upon his own land, across any water course not navigable, and shall deem it necessary to raise the water by means of such dam, or occupy ground for mill yard, or for irrigation purposes, so as to damage by overflowing or otherwise, real estate not owned by him, nor damaged by consent, he may obtain the right to erect and maintain said dam by proceedings as in this act provided; provided that all dams erected under the provisions of this act shall be constructed with such sluiceways as will allow fish to ascend any stream so dammed.

§ 2. SHALL PETITION THE COURT.] He shall present to the judge of any court of record in which jury trials are had in the county, or, if there be no such court in the county, then in the district in which said dam or any part thereof is to be located, a petition naming each person known to be affected or damaged, setting forth the place as near as may be, where said dam is to be located, the height to which it will be raised, the purposes to which the water power will be applied, and such other facts as may be necessary to show the objects of the petition.

§ 3. COMMISSIONERS.] Upon the presentation of such petition, the judge shall appoint three disinterested residents of the county in which said dam or a part of it is to be erected, commissioners to meet at the place of its proposed erection, on a day specified by such judge, and to inquire, touching the matters contained in said petition, and the judge shall fix the fees of said commissioners.

§ 4. SHALL TAKE OATH.] Before entering upon their duties the commissioners shall severally take and subscribe an oath before

some person qualified to administer oaths, faithfully and impartially to discharge the duties of their appointment.

§ 5. SHALL GIVE NOTICE.] At the request of the petitioners the commissioners shall give, or cause to be given, notice of the time, place and object of their meeting to every person named by said petitioner.

§ 6. THIRTY DAYS NOTICE.] At least thirty days notice shall be given in all cases, which shall be served in the manner prescribed by law for the service of summons in the District Court, and such notice shall be published for at least four successive weeks in a newspaper in the county nearest the location of the proposed dam.

§ 7. PRELIMINARY SURVEY.] The commissioners shall meet at the time and place specified in the notice, and shall cause a preliminary survey to be made, and shall proceed to examine the point at which said dam is proposed to be erected, and the lands and real estate above and below which will probably be injured by the erection of said dam; shall hear the allegations and testimony of all parties interested, and shall proceed to make a separate assessment of damages which will result to any person by the erection of said dam for mill or irrigation purposes and its maintenance.

§ 8. REPORT OF PROCEEDINGS.] Within thirty days after completing their examination, the commissioners shall file the petition, their appointment, jurats (oaths), and a report of their proceedings, in the office of the clerk of the court in the first section of this act mentioned, and shall give notice of the filing of said report as of their meeting, to all persons named in the petition, or that may be shown to be damaged by the preliminary survey.

§ 9. PAYMENT OF DAMAGES.] Upon the filing of said report the petitioners may make payment of the damages assessed to the parties entitled to the same in the following manner, to-wit:

1. To parties laboring under no disability.
2. To guardians of infants, husbands or trustees of femmes covert.
3. To guardians or conservators of insane persons.

And receipts for such payment filed in the office of the clerk aforesaid shall stop the parties receipting from all further claim or proceeding in the premises. Payments to parties residing in the state, but not in the county or counties where said dam or a part of it is to be erected, as well as to the infants who have no guardians, and insane persons who have no guardians or conservators, and payments to parties residing out of the state, and to persons whose names are unknown and to persons who shall refuse to receive the payments when tendered, shall be made by depositing the money with the treasurer of the county or counties aforesaid, who shall pay out the same upon the order of the commissioners or court, take receipts for all payments, and file the same with the order, in the office of the clerk of the court aforesaid, and such deposit shall have the same effect as the first mentioned receipts unless an appeal be taken by the party entitled thereto.

§ 10. APPEAL.] Appeals from the assessments made by the commissioners may be taken and prosecuted in the court aforesaid by any party interested (the petitioner excepted), not under legal disability, by husbands or trustees of femmes covert, guardians of infants, guardians or trustees of insane persons, and in cases where infants or insane persons have no guardians or conservators, appeals may be taken by the friends of such persons and a written notice of such appeal be served upon the appellee, as a summons in ordinary civil actions; provided, that no appeal shall be taken after the expiration of thirty days from the time of the notification of the filing of the report aforesaid.

§ 11. SHALL FILE BOND.] The erection of said dam shall not be hindered, delayed or prevented by the prosecution of any appeal; provided, the petitioner shall execute and file with the clerk of the court in which the appeal is pending, a bond to be approved by said clerk with surety or sureties, conditioned that the person executing the same shall pay whatever amount is required by the judgment of the court, and abide any rule or order of the court in relation to the matter in controversy.

§ 12. BOND APPROVED BY CLERK.] The appellant shall file with the clerk aforesaid a bond with surety, to be approved by said clerk, in double the amount of the assessment appealed from, payable to the people of the state, for the use of all persons interested, in the condition in which bond the proceedings appealed from shall be recited, with condition for the due and speedy prosecution of the appeal, and that he or they will satisfy the judgment that may be rendered in the premises and pay the costs of the appeal, if adjudged to do so by the court in reference to the matter in controversy.

§ 13. WHEN SUBMITTED TO JURY.] Appeal shall bring before the court the propriety of the amount of damages reported by the commissioners in respect to the parties to the appeal, and unless the parties otherwise agree, the matter shall be submitted to and tried by a jury the same as other appeal cases, and the court or jury, as the case may be, shall assess the damages aforesaid, making the verdict conform to the question and facts in the case.

§ 14. EXEMPLARY DAMAGES.] No exemplary or vindictive damages shall be allowed by the commissioners, court or jury.

§ 15. JUDGMENTS.] Upon verdicts rendered by juries, or an assessment by the court, judgment shall be entered, declaring that upon payment of the damages assessed by the court or jury, as the case may be, and costs, if any, the right to erect and maintain the dam aforesaid, according to the petition, shall, as against the parties interested in such verdict be and remain in the petitioner, his heirs and assigns forever, subject to be lost as hereinafter provided, and payments of such judgments made as payments of assessments, by the commissioners as hereinbefore provided.

§ 16. WATER POWER SHALL NOT BE INJURED.] No dam shall be erected or maintained under the provisions of this act to the injury of any water power previously improved.

§ 17. ACTION FOR DAMAGES.] No action for damages, occasioned by the erection and maintenance of such dam shall be hereafter sustained unless such action be brought within two years after the erection of said dam; provided, that such limitation shall not run against and apply to persons living on and holding government land under the pre-emption laws, until a patent for the land damaged or overflowed shall have been issued.

§ 18. ANY PERSON MAY MAINTAIN DAM.] Any person may obtain a right to maintain or raise a dam heretofore erected upon his own land, across any water course not navigable, by complying with the provisions of this act, adapting his petition to the nature of the case.

§ 19. MAY SUSPEND SUIT.] Upon the evidence of the commencement of proceedings, as provided in sections 2 and 18, the court before which any suit for damages occasioned by such dam shall be instituted after the commencement aforesaid, shall have power to suspend any such suit until the result of such proceeding shall be known.

§ 20. COSTS.] The costs of all proceedings under this act, except such as arise or grow out of appeals, shall be paid by the petitioner, and costs of appeals shall be paid as the court may direct.

§ 21. SURVEYS AND EXAMINATIONS.] For the purpose of making surveys and examinations relating to any proceedings under the provisions of this act, it shall be lawful to enter upon any land doing no unnecessary injury.

§ 22. WHEN CONSTRUCTION MUST COMMENCE.] Any person having obtained right to erect and maintain, or to maintain or raise any dam, under the provisions of this chapter, who shall not within one year thereafter begin to build said dam, and finish the same and apply the water power thereby created to the purposes stated in his petition within three years; or in case the said dam shall be destroyed shall not begin to rebuild in one year after such destruction, and finish in three years, or in case of a mill dam shall fail to keep such mills in operation for one year at any one time, shall forfeit all rights acquired by virtue of the provisions of this act unless at the time of such destruction the owner be an infant, or otherwise disabled in law, in which case the same time shall be allowed after the removal of such disability; provided, however, where the water, backed up by any dam belonging to any mill owner or machinery, is about to break through or over the banks of the stream or race, or to wash a channel so as to turn the water of such stream or race, or any part thereof, out of its ordinary channel, whereby such mill or machinery will be injured or affected, the owner or occupier of such mill or machinery, if he does not own such banks or the lands lying contiguous thereto, may, if necessary, enter thereon and erect and keep in repair such embankments and other works as shall be necessary to prevent such water from breaking through or over the banks of such stream or race, or wash-

ing a channel as aforesaid, such owner or occupier committing thereon no unnecessary waste or damage, and being liable to pay any damages which the owner of the land may actually sustain by the erection and repair aforesaid; and provided, further, that if any person shall injure, destroy or remove any such embankment or other works, the owner or occupier of such mill or machinery or in case the said dam is for purposes of irrigation, the owner thereof, may recover of such person all damages he may sustain by reason of such injury, destruction or removal.

Approved March 8, 1899.

DAIRY PRODUCTS.

CHAPTER 72.

[H. B. 117.]

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 a Deputy Commissioner of Agriculture, Prescribing His Duties, and Fixing His Salary.

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

§ 1. ASSISTANT DAIRY AND FOOD COMMISSIONER.] In order to secure the better enforcement of the provisions of this act, and to promote the improvement of the product 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 and food commissioner, who shall have a practical knowledge of, and experience in the manufacture of dairy products, and hold his office during the term of the commissioner of agriculture subject to removal from office for inefficiency, neglect or violation of duty. The said assistant commissioner shall receive a salary of six hundred dollars per annum and his actual and necessary expenses in the discharge of his duties under this act, and shall be charged under the direction of the commissioner of agriculture with the enforcement of the various provisions thereof.

The sum of one thousand dollars annually is hereby appropriated to which shall be added the amount in fines collected in the enforcement of the provisions of this act, to be paid for such purposes out of any moneys in the treasury not otherwise appropriated, and any money so appropriated not expended in the enforcement of the provisions of this act shall revert to the state school fund. All charges, accounts and expenses authorized by this act shall be paid

by the treasurer of the state upon the warrant of the state auditor. The entire expense of said assistant commissioner shall not exceed the sum appropriated for the purpose of this act.

§ 2. COMMISSIONER SHALL REPORT.] The biennial report 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 commissioner, since the preceding report with such facts and statistics in regard to the production, manufacture and sale of dairy products with such suggestions as he may regard of public importance connected therewith.

§ 3. POWERS OF THE COMMISSIONER.] The said assistant 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 manufacture and sale of any dairy products or any imitation thereof. They also shall have power and authority to open any package, can or vessel containing such articles which may be manufactured, sold or exposed for sale in violation of the provisions of this act, and may inspect the contents therein and take samples therefrom for analysis. All clerks, bookkeepers, express agents, railroad officials, employes or common carriers shall render to them any assistance in their power when so requested, in tracing, finding or discovering the presence of any prohibited article named in this act.

§ 4. PENALTY.] Any refusal or neglect on the part of such clerks, bookkeepers, express agents, railroad officials, common carriers or employes to render such friendly aid shall be deemed a misdemeanor and be punished by a fine of not less than twenty dollars nor more than fifty dollars for each and every offense.

§ 5. SHALL PROVIDE BLANKS.] The said assistant commissioner shall provide blanks which shall be furnished all proprietors or managers of creameries, cheese factories and all the venders or peddlers of milk who 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 venders or peddlers of milk, shall on the first day of November of each year, send to the assistant dairy and food commissioner a full and accurate report of the amount of business done during the year as designated under the different headings of such printed blanks.

§ 6. MISDEMEANOR.] Any neglect or failure or false statement on the part of any owner or manager of such creamery, cheese factory, or any vender or peddler of milk shall be considered a misdemeanor and be punished by a fine of not less than ten nor more than fifty dollars.

§ 7. STENCIL OR BRAND.] Every creamery, cheese factory or combined creamery and cheese factory engaged in the manufacture of butter and cheese 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 may contain a special or private brand or name of said factory; every brand shall be used upon 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 November of each year report to the assistant dairy and food commissioner the name, location and number of each factory using said 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 said assistant commissioner shall keep a book in which shall be registered the same.

Any neglect or failure to comply with the provisions of this section shall be considered a misdemeanor and shall be punishable by a fine of not less than ten dollars and not more than fifty dollars for each and every offense.

§ 8. DAIRYMEN LICENSED.] Every person who sells milk from a dairy of five or more cows, and conveys the same in carriages, carts or other vehicles for the purpose of such sale, in any city or town of one thousand inhabitants or more, in the State of North Dakota, shall on the first day of June of each year, or within thirty days thereafter be licensed by the assistant dairy and food commissioner to sell milk within the limits of said city or town, and shall pay to the said assistant commissioner the sum of one dollar each to the use of said dairy and food commissioner, but any person desiring to engage in such dairy business shall first procure a license as aforesaid, which shall be valid until the first day of June next succeeding its issue. Licenses shall be used only in the names of the owners of carriages, carts and other vehicles, and shall, for the purpose of the act, be conclusive evidence of ownership. No license shall be sold, assigned or transferred.

Each license shall record the name, residence, place of business, number of carriages, carts or other vehicles used, the name and residence of every driver or other person engaged in selling said milk, and the number of the license. Each licensee shall before engaging in the sale of milk, cause his name, the number of his license, and his place of business to be legibly placed on each outer side of all carriages, carts or other vehicles used by him in the conveyance and sale of milk, and he shall report to the said assistant commissioner any change of driver or other person employed by him which may occur during the term of his license.

Whoever without being first licensed under the provisions of this section, sells milk, or exposes it for sale from carriages, carts or other vehicles, or has in his custody or possession with intent to sell, and whoever violates any of the provisions of this section shall be punished by a fine of not less than ten dollars and not more than fifty dollars for each and every offense.

§ 9. WHEN GUILTY OF MISDEMEANOR.] Every person before selling milk or offering it for sale in a store, booth, stand or

market place in the respective towns or cities as designated in this act shall procure a license from the assistant dairy and food commissioner and shall pay to said assistant commissioner the sum of one dollar. Whoever neglects to procure said license shall be deemed guilty of a misdemeanor and shall be punished by a fine not exceeding twenty dollars for each and every offense.

§ 10. FINE FOR SELLING UNWHOLESOME MILK.] If any person shall sell, exchange or expose for sale or exchange, or to be converted into any product of human food, any unclean, unhealthy, adulterated, unwholesome or skimmed milk, or milk from which has been held back what is commonly known as strippings, or milk taken from an animal having disease, sickness, ulcers, abscesses or running sores, or which has been taken from an animal within 15 days before or 5 days after parturition; or if any person having cows for the purpose of producing milk or cream for sale, shall stable them in an unhealthy place or crowded manner, or shall knowingly feed them food which produces impure, unwholesome milk, or upon any substance in a state of putrefaction or rottenness, or of an unhealthy nature, or shall sell or offer for sale cream which has been taken from milk the sale of which has been prohibited, or shall sell or offer for sale as cream an article which shall contain less than the amount of butter fat as prescribed in this act; or if any person shall sell or offer for sale any cheese manufactured from skimmed milk, or from milk that is partly 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 he shall be fined not less than twenty nor more than fifty dollars, but the provisions of this section shall not apply to skimmed milk when sold as such and in the manner and subject to the regulations prescribed in this act.

§ 11. COMMISSIONER SHALL INSPECT DAIRIES.] For the purpose of this act the addition of water or any other substance or thing to whole milk, or skimmed milk, or partially skimmed milk is hereby declared an adulteration, and milk which is obtained from animals fed upon 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 analyses to contain less than twelve per cent of milk solids to the hundred pounds of milk, or than three pounds of butter fat to one 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.

It is hereby made the duty of the assistant dairy and food commissioner to inspect such dairies as he shall deem necessary and enforce the provisions of the two preceding sections.

§ 12. ADULTERATED MILK.] No person by himself or his agents or servants shall render or manufacture, sell, offer for sale, expose for sale, take orders for the future delivery of, have in his posses-

sion, 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 in 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 manner as will advise the consumer of its real character free from coloration or ingredient that causes it to look like butter. Whoever violates any of the provisions of this section shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars for each and every offense.

§ 13. OLEOMARGARINE OR BUTTERINE.] Whoever exposes 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, stamped 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, shall be deemed guilty of a misdemeanor and punished by a fine of not less than twenty-five dollars nor more than one hundred dollars for each and every offense.

§ 14. "RENOVATED BUTTER."] Whoever by himself, his agents or employes shall manufacture, sell, offer 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 re-churning 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, in prints, boxes or rolls not plainly and conspicuously labeled on the wrapper thereof with the said words "renovated butter" in printed letters not less than one-half inch in length and one-quarter inch in width, shall be deemed guilty of a misdemeanor and punished by a fine of not less than twenty-five dollars nor more than one hundred dollars for each and every offense.

§ 15. PUNISHED BY FINE.] Whoever furnishes or causes to be furnished in any hotel, restaurant, boarding house or at any lunch counter, oleomargarine or butterine to any guest or patron of such hotel, restaurant, boarding house or lunch counter in the place or stead of butter shall notify said guest or patron that the substance so furnished is not butter and any party so furnishing without such

notice shall be punished by a fine of not less than five dollars nor more than ten dollars for each and every offense.

§ 16. "FILLED CHEESE."] Any person or firm who shall sell or offer for sale or make or manufacture out of any oleaginous substance or substances or any compound of the same or any other compound other than that produced from unadulterated milk, any article designed 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 lamp black 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. Whosoever violates the provisions of this section is guilty of a misdemeanor and shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars for each and every offense.

§ 17. FARMERS' INSTITUTES.] The assistant dairy and food commissioner shall be director of farmers' institutes in the state and have charge of all matters relating thereto. He shall arrange for holding as many farmers' institutes during the year as possible and in connection with local committee where institute is to be held shall prepare program and provide for speakers and lecturers. The expense of such institutes shall be limited to the actual expense of travel and entertainment for speakers and lecturers.

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

Approved March 9, 1899.

DELINQUENT TAXES.

CHAPTER 73.

[S. B. 153.]

ADJUSTMENT OF DELINQUENT TAXES.

AN ACT to Amend Section 1353 of the Revised Codes of the State of North Dakota, Relating to Adjustment of Delinquent Taxes Due the State from Counties, and Repealing Section 1347 of Said Codes.

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

§ 1. AMENDMENT.] That section 1353 of the Revised Codes of the States of North Dakota be amended to read as follows:

§ 1353. DISCREPANCIES.] Whenever any material discrepancy shall be found to exist between the statements returned from the several counties and the account as shown by the books of the state auditor's office, it shall be the duty of the state examiner, when

ordered so to do by the state auditor, to make an examination of the accounts and tax lists of such county and ascertain wherein the discrepancy lies, and make the adjustment in accordance with such examination.

§ 2. REPEAL.] That section 1347 of the Revised Codes of the State of North Dakota be, and the same is hereby expressly repealed.
Approved March 8, 1899.

DISCHARGE OF MORTGAGES.

CHAPTER 74.

[S. B. 92.]

DISCHARGE BY ENTRY.

AN ACT to Repeal Section 4718 of the Revised Codes of North Dakota.
Relating to the Discharge by Entry in the Margin of the Record
Thereof.

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

§ 1. REPEAL.] That section 4718 of the Revised Codes of North Dakota, relating to the discharge of recorded mortgages by entry in the margin of the record thereof, be and the same is hereby repealed.

§ 2. EMERGENCY.] Whereas, an emergency exists in that section 4718 does not provide for the recording of any instrument discharging recorded mortgages, and that great inconvenience and uncertainty is thereby experienced in making abstracts of title of mortgaged real estate; therefore, this act shall take effect and be in force on and after the passage and approval.

Approved February 24, 1899.

DIVORCE.

CHAPTER 75.

[S. B. 1.]

DISSOLUTION OF MARRIAGE.

AN ACT to Amend Section 2755 of the Revised Codes of North Dakota.
Relating to Dissolution of Marriage.

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

§ 1. AMENDMENT.] That section 2755 of the Revised Codes of the State of North Dakota is hereby amended to read as follows:

§ 2755. TERM OF RESIDENCE.] A divorce must not be granted unless the plaintiff has in good faith been a resident of the state for twelve months next preceding the commencement of the action and is a citizen of the United States or has declared his intention to become such.

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

Approved February 3, 1899.

CHAPTER 76.

[S. B. 102.]

WHEN ACT SHALL APPLY.

AN ACT Providing that the Provisions of the Act Entitled "An Act to Amend Section 2755 of the Revised Codes of North Dakota, Relating to Dissolution of Marriage," Shall Not Apply to Any Action in Which the Complaint Shall Have Been Filed in the Office of the Clerk of the District Court Prior to July 1, 1899.

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

§ 1. SHALL NOT APPLY PRIOR TO JULY 1ST, 1899.] The provisions of the act entitled "An act to amend section 2755 of the Revised Codes of North Dakota relating to the Dissolution of Marriage," shall not apply to any action for divorce in which the complaint shall have been filed in the office of the clerk of the District Court prior to the first day of July, 1899.

Approved March 8, 1899.

CHAPTER 77.

[H. B. 7.]

CAUSES FOR DIVORCE.

AN ACT to Amend Sections 2737 and 2743 of the Revised Codes of North Dakota, Relating to the Causes for Divorce and Duration Thereof.

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

§ 1. AMENDMENT.] That section 2737 of the Revised Codes be amended so as to read as follows:

§ 2737. Divorces may be granted for any of the following causes: First, adultery; second, extreme cruelty; third, wilful desertion; fourth, wilful neglect; fifth, habitual intemperance; sixth, conviction for felony; seventh, incurable insanity.

§ 2. AMENDMENT.] That section 2743 of the Revised Codes be amended to read as follows:

§ 2743. Wilful desertion, wilful neglect or habitual intemperance must continue for one year before either is a ground for a divorce, and incurable insanity must continue for two years, the person so affected to have been confined in an asylum for the insane during such time, before it is a cause for divorce, and the testimony of the superintendent of such asylum, showing such person to be incurably insane, must be produced before the court granting such divorce before the same shall be granted.

Approved March 6, 1899.

CHAPTER 78.

[S. B. 12.]

ALIMONY IN DIVORCE CASES.

AN ACT to Amend Section 2761 of the Revised Codes of the State of North Dakota, of Revision of 1895, Relating to the Granting of Alimony in Divorce Cases.

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

§ 1. AMENDMENT.] That section 2761 of the Revised Codes of the State of North Dakota is hereby amended to read as follows:

§ 2761. SUPPORT.] When a divorce is granted for an offense of the husband the court may make such suitable allowance to the wife for her support during her life or for a shorter period as the court may deem just; and when such divorce is granted for the offense of either the husband or wife, the court may compel such

husband to provide for the maintenance of the children of the marriage, having regard to the circumstances of the parties respectively; and the court may from time to time modify its orders in these respects.

Approved February 24, 1899.

DRAINS.

CHAPTER 79.

[H. B. 46.]

CONSTRUCTION OF DRAINS.

AN ACT to Amend Sections 1447, 1448, 1450, 1452, 1453, 1454, 1457 and 1466 of the Revised Codes, Relating to the Establishment, Construction and Maintenance of Drains.

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

§ 1. AMENDMENT.] That sections 1447, 1448, 1450, 1452, 1453, 1454, 1457 and 1466 of the Revised Codes of 1895 be amended so as to read as follows:

§ 1447. A petition for the construction of a drain may be made in writing to the board of drain commissioners. 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 board of drain commissioners shall require that the petition be signed by the owners, their agents duly authorized in writing or the legal representatives of the owners of such lands, as in the aggregate will, in the event of the construction of the drain be liable to assessment for a major portion of the cost thereof. 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 and for the public good, it shall cause a survey of the line thereof to be made by a competent surveyor, who shall 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, showing the regular subdivisions thereof, all of which shall be filed in the office of the county auditor of the county in which such drain is proposed to be constructed 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. All persons whose land may be affected by any such drain may appear before the board of drain commissioners and fully express their opinions upon the matters pertaining thereto.

§ 1448. If upon such examination and survey, 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 benefit to be derived therefrom, the board of drain commissioners shall thereupon make an order establishing the drain, and give the same a name by which it shall be recorded and indexed.

§ 1450. Upon the assessment by the jury, court or referee, of the amount of damages to which the respective owners of the right of way to be used for the construction of any proposed drain are entitled, the board of drain commissioners may issue warrants in a sum sufficient to pay the damages assessed for right of way, drawn upon the proper county treasurer, and payable out of any funds in the hands of the treasurer, for the construction of the drain for which such right of way is sought to be obtained, and shall negotiate the same at not less than the par value thereof, and pay into court for the benefit of the owners of the right of way the amount to which each is entitled according to the assessment of damages, paying the surplus, if any, to the county treasurer, who shall place the same to the credit of the proper drain fund. If warrants cannot be negotiated, the board of drain commissioners shall assess the per cent of

the cost of acquiring the right of way in the manner provided in section 142, making return to the county auditor containing all that is required in section 1453, and make, serve and file the list provided for in section 1457, and no further proceedings shall be taken until the special tax levied to pay for the right of way is collected and paid into court for the benefit of the owners of the right of way.

§ 1452. Upon acquiring the right of way, if the assessment of benefits has not already been made under the provisions of section 1450, the board of drain commissioners shall assess the per cent of the cost of constructing and maintaining such drain, and of providing the right of way therefor, which any county, township, city, village or town shall be liable to pay by reason of the benefits of such drain to the public health, convenience, or welfare, and which any railroad company shall be liable to pay by reason of benefits to accrue to its property, and which any lot, piece or parcel of land shall be liable to pay by reason of benefits to accrue thereto, either directly or indirectly, by reason of the construction of such drain, whether such lands are immediately drained thereby, or can be drained only by the construction of other and connecting drains, but such assessment shall be subject to review by the commissioners as hereinafter provided.

§ 1453. After the assessment of benefits has been made, as provided in the last section, 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, conveyances of the right of way, if any, and the assessment of benefits.

§ 1454. After filing the return with the county auditor, as heretofore 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 1451.

§ 1457. The board of drain commissioners shall make a list showing the amount which each municipality and lot or tract of land benefitted 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 1452 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 benefitted 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 such 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 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.

§ 1466. The collection of no tax or assessment levied or ordered to be levied to pay for the location and construction of any drain laid out and constructed under this chapter, shall be perpetually enjoined or declared absolutely void in consequence of any error of any officer or board in the location and establishment thereof, nor by reason of any error or informality appearing in the record of the proceedings by which any drain shall have been located or established, nor for want of proper conveyance or condemnation of the right of way, but the court in which any proceeding may hereafter be brought to reverse or to declare void the proceedings by which any drain has been located or established or to enjoin the tax levied to pay the labor and cost and expenses shall on application of either party appoint such person or persons to examine the premises, or to survey the same, or both, as may be deemed necessary; and the court shall on a final hearing make such order in the premises as shall be just and equitable, and may order such tax to remain on the tax lists for collection, or any part thereof, or if the same shall have been paid under protest shall order the whole or such part

thereof as may be just and equitable to be refunded, the costs of said proceedings to be apportioned among the parties as justice may require.

If any proceedings for the location, establishment or construction of any drain under the provisions of this chapter, have been heretofore, or shall be hereafter enjoined, vacated, set aside, declared void, or voluntarily abandoned by the board of drain commissioners, in consequence of any error, irregularity or want of jurisdiction affecting the validity of such proceedings, and if any drainage warrants have been or shall hereafter be issued in connection with such aforesaid invalid or abandoned proceedings, the board of drain commissioners may nevertheless proceed under the provisions of this chapter to locate, establish and construct drains under the same or different names, and in the same or different locations from those described in the invalid or abandoned proceedings; provided, however, such new proceedings shall be in accordance with the general provisions of this chapter.

In case new proceedings shall be had, resulting in the location and establishment of a drain in the same or substantially the same location as that described in the invalid or abandoned proceedings, then the board of drain commissioners shall proceed to ascertain and determine the real value of services rendered, moneys expended, and work done under such invalid or abandoned proceedings, and the extent to which the same have contributed or will contribute to the construction and completion of such drain, as subsequently established and constructed. A meeting of said board of drain commissioners shall be held for the purpose of determining and fixing the value aforesaid, at which meeting all persons interested, whether as holders of warrants issued under invalid or abandoned proceedings, or as owners of land benefited or to be benefitted by such drain, may appear and be heard. Ten days' notice of such meeting shall be given, in the manner at the time, and as a part of the notice provided for in sections 1451 or 1454, and the notice as published shall state briefly the purpose of such meeting, and that all persons interested may appear and be heard. The board shall thereupon, and after such hearing, by an order made and entered in their minutes, find and determine: (1) the real value of all work done, money expended and services rendered under such invalid or abandoned proceedings, to the extent only to which they contribute to the drain as subsequently located and established; (2) the names of all persons or corporations owning or holding drain warrants issued under such invalid or abandoned proceedings, and the dates and several amounts of such warrants. The board shall then proceed to issue warrants to an amount not exceeding the value of the work done, moneys expended and services rendered under such invalid or abandoned proceedings, and deliver such new warrants to the owners or holders of the old warrants upon surrender and return of the latter: provided, however, that the value of any ser-

vice rendered, or money expended, or work done, shall in no case be declared to be greater than the warrant issued therefor, under the invalid or abandoned proceedings, and if found to be less, the new warrant shall not be issued or delivered except upon the surrender and return of the old warrant, in lieu of which it is issued. The real purpose and intent of this act is to afford compensation for services rendered, work done, and moneys expended, under invalid or abandoned proceedings, to the extent only to which the same contributes to the completion of a drain located and established in pursuance of the provisions of this chapter.

§ 2. EMERGENCY.] Whereas, an emergency exists in that there are no adequate provisions of law relating to or governing the matters enumerated in the foregoing amendments; and, whereas, it is desirable that such amendments shall take effect at once for the purpose of expediting the work of constructing drains during the spring months; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved February 17, 1899.

CHAPTER 80.

[S. B. 118.]

DRAINS IN PEMBINA COUNTY.

AN ACT Providing for an Appropriation to Pay Expense of Construction of Drains Through School Lands Situated in Pembina County.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of the general fund, not otherwise appropriated, the following sums: \$16.00 and \$165.00 to pay the assessment levied as benefits on drains number two and five through the southeast quarter of section thirty-six, township one hundred and fifty-nine, range fifty-two, and through the southwest quarter of the southeast quarter of section thirty-six, township one hundred fifty-nine, range fifty-two, Pembina County. Said lands belong to University and school lands.

Approved February 24, 1899.

EDUCATION.

CHAPTER 81.

[S. B. 78.]

RELATING TO EDUCATION.

AN ACT to Amend Sections 625, 707, 751 and 757 of the Revised Codes as Amended by Chapter 75 of the Laws of 1897, and Sections 703, 704, 755, 868, 869, 870, 871, 872 and 873 of the Revised Codes, Relating to Education.

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

§ 1. AMENDMENT.] That sections 625, 707, 751 and 757 of the Revised Codes, as amended by chapter 75 of the Laws of 1897, and sections 703, 704, 755, 868, 869, 870, 871, 872 and 873 of the Revised Codes, relating to education, be and the same are hereby amended to read as follows:

§ 625. To furnish school supplies, blanks, etc., and to establish circulating libraries.

1. He shall prepare, cause to be printed and furnish to the proper officers or persons all district clerk's record books and warrant books, school treasurers' record books, school registers, reports, statements, notices and returns needed or required to be used in the schools or by the school officers of the state. He shall prepare and furnish to school officers, through the county superintendents, lists of publications approved by him as suitable for district libraries; such lists shall contain also the lowest price at which each publication can be purchased and such other information relative to the purchase of district libraries as he may deem requisite.

2. He shall also select and purchase books suitable for district libraries, and cause the same to be circulated as traveling libraries, under such rules and regulations as he may prescribe. And for the purpose of selecting and purchasing such books there is hereby appropriated the sum of seven hundred and fifty dollars (\$750.00) annually, to be paid by warrant of the state auditor on the state treasurer, upon the presentation of itemized bills in due form, duly approved by the superintendent of public instruction.

§ 703. 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 of 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 701. 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 seven 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 704.

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

Provided, further, that a board may call, and if petitioned by a majority of the voters in the district, shall call an election to determine the question of consolidating two or more common schools, and of selecting a site and erecting a suitable building or of making suitable additions to buildings already erected, to accommodate the pupils of schools to be vacated. Said elections shall be conducted both as to notices and as to manner of canvassing the votes in the same manner as the annual school election. If two-thirds of the votes cast at such election are in favor of consolidating two or more schools and of providing a suitable building for the accommodation of the pupils of vacated schools, then the board shall make all necessary arrangements to carry out the decision of the district. The

board shall arrange for the transportation of pupils to and from such general school. It shall establish routes of travel, adopt rules and regulations for such transportation and shall contract with responsible parties for such transportation.

§ 707. SCHOOL CENSUS. ANNUAL SCHOOL REPORT.] The board shall cause the clerk to make an enumeration each year of all unmarried persons of school age, being over six and under twenty years of age, having their legal residence in the district on the first day of June of that year, giving the names and ages of such persons and the name of the parents or guardian having the care and custody of each. Such 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 20th day of June. 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 first and ending June thirtieth, 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. Provided, that special school districts, independent districts and districts organized for school purposes under special law, shall enumerate their children of school age on the first day of December, or within the next twenty days following, and such enumeration shall be reported to the county superintendent by the clerk.

§ 751. TEACHERS' INSTITUTES AND TEACHERS' TRAINING SCHOOLS, HOW NOTICED. PENALTY FOR FAILURE TO ATTEND.] When a teachers' institute or teachers' training school is appointed to be held in or for any county it shall be the duty of the county superintendent to give written or printed notice thereof to each teacher in the public schools of the county, and as far as possible to all others not then engaged in teaching, who are holders of teachers' certificates, at least ten (10) days before the opening of such institute or teachers' training school of the time and place of holding it. Each teacher receiving such notice, engaged in teaching a term of school which includes wholly or in part the time of holding such institute or teachers' training school, shall close school and attend the same and shall be paid by the school board of the district his regular wages as teacher for the time he attended such institute or teachers' training school, as certified by the county superintendent, but no teacher shall receive pay unless he has attended four (4) consecutive days, nor shall any teacher receive pay for more than five (5) days. The county superintendent may revoke the certificate of any teacher in his county for inexcusable neglect or refusal, after due notice, to

attend a teachers' institute or teachers' training school held for such county. The provisions of this section shall not apply to high school teachers, nor to teachers in cities organized for school purposes under a special law, nor to teachers in cities organized as independent districts under the provisions of this chapter.

§ 755. TEACHERS' COUNTY INSTITUTE FUND.] All money received by the county superintendent from examination fees for the county institute fund, and all money paid into this fund from the county general revenue fund, shall be used by him to aid in the support of teachers' institutes or teachers' training schools, to be held within or for the county and to pay necessary expenses incurred therein. The county superintendent shall present an itemized statement, duly verified, to the county auditor for the amount of all such necessary expenses and the auditor shall issue a warrant therefor as provided by law. The county superintendent shall, at the end of each year, submit a full and accurate statement of the receipts and expenditures of these funds, under oath, to the superintendent of public instruction.

§ 757. INSTITUTE FUNDS, HOW PAID OUT.] It shall be the duty of the county superintendent in all cases to consult with the 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 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 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 day its institute is in session; provided, that the state and county institute funds specified by sections 756 and 755 and the appropriation specified by section 758 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 superintendent of public instruction. Furthermore, provided, that in any county where a teachers' training school of not less than three weeks duration is held, the conductor of such training school shall file a certified statement with the county auditor specifying time and place of such teachers' training school, and also certifying the total number of schools in said county as reckoned in determining the county superintendent's salary. The county treasurer 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 (\$2) for each school in the county, as per certified statement filed with the county auditor.

§ 868. STUDENTS CLASSIFIED.] Any public graded school in any city or incorporated village or township, organized into a district, under the township or district system, which shall give instruction according to the terms and provisions of this article and shall admit students of either sex from any part of the state without charge for tuition, shall be entitled to be classified as a state high school and to receive pecuniary aid as hereinafter specified; provided, however, that no such school shall be required to admit non-resident pupils unless they pass an examination in orthography, reading in English, penmanship, arithmetic, grammar, modern geography, and the history of the United States.

§ 869. REQUIREMENTS FOR CLASSIFICATION.] The said board shall require of the schools applying for such pecuniary aid as prerequisite to receiving such aid, compliance with the following conditions, to-wit:

1. That there be regular and orderly courses of study, embracing all the branches prescribed by the said board for the first two years of the high school course.

2. That the said school receiving pecuniary aid under this article shall at all times permit the said board of commissioners, or any of them, to visit and examine the classes pursuing the said preparatory courses.

§ 870. SCHOOLS VISITED ONCE EACH YEAR. WHAT SCHOOLS TO RECEIVE STATE AID. APPROPRIATION.]

1. The said board of commissioners shall cause each school receiving aid under this act to be visited at least once in each year, by a committee of one or more members, who shall carefully inspect the instruction and discipline of the preparatory classes, and make a written report on the same immediately; provided, that the said board may, in its discretion, appoint, in any case, competent persons to visit and inspect any school and to make report thereon; and 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 a vote of the board.

2. The said board shall receive applications from such schools for aid as hereinafter provided, which applications shall be received and acted upon in the order of their reception. The said board shall apportion to each of the said schools which shall have fully complied with the provisions of this act, and whose application shall have been approved by the board, the following sums, to-wit: One hundred and seventy-five dollars (\$175.00) each year to each school having four years' high school course and doing four years' high school work; the sum of one hundred and forty dollars (\$140.00) each year to each school having a three years' high school course and doing three years' high school work; the sum of one hundred dollars (\$100.00) each year to each school having a two years'

high school course and doing two years' high school work; provided, that the total amount of apportionments and expenses under this act shall not exceed four thousand dollars (\$4,000.00) in any one year. The sum of four thousand dollars (\$4,000.00) is hereby appropriated annually to be paid out of any moneys in the treasury not otherwise appropriated for the purposes of this act; 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.

§ 871. NO COMPENSATION. EXPENSES.] The members of said board shall serve without compensation, but the actual and necessary expenses of the board or any examiner appointed by them, shall be paid in the same manner as those of state officers; provided, that the total expense, including the apportionments to the schools aforesaid, shall not exceed four thousand dollars (\$4,000.00) in any one year.

§ 872. DISCRETIONARY POWERS. ASSISTANT EXAMINER.] 1. The high school 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 two schools complying with the prescribed conditions shall have a right to aid from this appropriation before aid may be granted to a third 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 studies 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 (\$3) a day; provided, that no such compensation shall be paid to any person receiving a salary from the state or from any state institution.

§ 873. SHALL KEEP RECORD.] The said board shall keep a record of all the proceedings and shall make on or before the first day of December in each year a report, covering the previous school year, to the superintendent of public instruction, showing in detail all receipts and disbursements, the names and number of schools receiving aid, the number of pupils attending the classes in each, to which report they may add such recommendations as they may deem useful and proper.

Approved March 9, 1899.

CHAPTER 82.

[H. B. 45.]

BOARDS MAY PURCHASE TEXT BOOKS.

AN ACT to Amend Sections 863 and 864 of the Revised Codes, Relating to Education.

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

§ 1. AMENDMENT.] That sections 863 and 864 of the Revised Codes of the State of North Dakota be and the same are hereby amended to read as follows:

§ 863. The board of trustees or board of education of each and every school district in the State of North Dakota is hereby authorized and empowered to select, adopt, and contract for all books and supplies needful for the school or schools under its charge; and the said board of trustees or board of education shall have power to purchase the text books and supplies selected or contracted for, and provide for the loan free of charge [or sale at cost] of such text books and supplies to the pupils in attendance at such school or schools; provided, that no adoption or contract shall be for a period of less than three (3) years nor more than five (5) years; during which time the text books so selected, adopted, and contracted for shall not be changed; provided, further, that before any publisher or publishers shall enter or attempt to enter into any contract for the sale of text books, as hereinbefore provided, they shall file with the superintendent of public instruction of the State of North Dakota a list of their books and the lowest prices at or for which they will sell any or all of such books to any board of trustees or board of education in the State of North Dakota, and they, the said publishers, shall deposit with the superintendent of public instruction a sample copy of each book so listed, which shall represent in style of binding, mechanical execution, general make-up and matter the book or books they offer to sell to the board of trustees at or for the prices so listed and in no case shall prices be raised above said listed prices as filed. It shall be the duty of the superintendent of public instruction to furnish a certified copy of the list of books and prices filed in accordance with the provisions of this section to the district clerk of each common school district in the State of North Dakota.

§ 864. 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 better school privileges, or whenever petitioned so to do by two-thirds of the voters in the district, the board shall provide free text books and supplies for all schools under its charge, in such manner as hereinbefore provided. All books purchased in accordance with the provisions of this act shall be paid

for out of the school fund of the respective districts and it shall be the duty of the school districts and school boards to see that sufficient funds are raised and set aside for the purposes of this act. The clerk of each district shall also keep a record of all books furnished to the schools in the district.

Approved March 8, 1899.

CHAPTER 83.

[Sub. for H. B. 59.]

APPORTIONMENT OF TUITION FUND.

AN ACT to Amend Sections 710, 711, 713, 715, 716, 719 and 722, Revised Codes, Relating to Education, and Providing for the Apportionment of Special Tuition Fund by the County Superintendent of Schools and the Payment Thereof by the County Treasurer to School District Treasurers.

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

§ 1. AMENDMENT.] That sections 710, 711, 713, 715, 716, 719 and 722, Revised Codes, relating to education, be and the same are hereby amended to read as follows:

§ 710. STATE TUITION FUND, HOW RAISED.] The net proceeds arising from all fines and penalties for violation of state laws, from leasing school lands and the interest and income from the state permanent school fund shall be collected and paid into the state treasury in the same manner as is provided by law for the collection and payment of state taxes, and shall constitute the state tuition fund, which shall be apportioned among the several counties of the state in proportion to the number of children of school age in each, as shown by the last enumeration authorized by law.

§ 711. COUNTY TREASURER TO REPORT STATE TUITION FUND QUARTERLY. SUPERINTENDENT OF PUBLIC INSTRUCTION APPORTIONS.] It shall be the duty of the county treasurer to receive from the proper officers the net proceeds of fines, penalties and forfeitures for violation of state laws, and all moneys arising from leasing school lands within the county, and to forward a detailed statement of moneys so collected, specifying the amount received from each of the above sources, to the state auditor at the same time that he is required to make reports of other moneys to such auditor. It shall be the duty of the state auditor on or before the third Monday in February, May, August and November in each year to certify to the superintendent of public instruction the amount of the state tuition fund and the superintendent of public instruction shall immediately apportion such fund among the several counties of the state in proportion to the number of children of school age residing

in each as shown by the last enumeration provided for by law, and certify to the state auditor, state treasurer and to the county treasurer and county superintendent of each county, the amount apportioned to the respective counties. Immediately upon receipt of such apportionment from the state superintendent as herein provided, the state auditor shall draw a warrant upon the state treasurer for the full amount of the state tuition fund apportioned to the several counties and shall deliver the same to the state treasurer taking his receipt therefor, and shall notify the several county treasurers of the amounts due their respective counties and that such warrant has been issued therefor and the state treasurer shall pay on such warrant to the several county treasurers the amount due their respective counties; provided, however, that all moneys arising from interest on the permanent school fund and from leasing school lands shall be apportioned under a separate item and such money shall be taken account of as a separate item by all officers making or certifying such apportionment. or through whose hands any portion of such fund shall pass and it is further made the duty of the district treasurer to keep such fund separate from all other funds and if at the close of the school year any part of such fund which was apportioned prior to the third Monday of November of such year remains in the hands of the district treasurer, he shall return the same to the county treasurer taking his receipt therefor, and the county treasurer shall return all such funds so returned or that were not drawn by the district treasurer from the county treasury to the state treasurer who shall receipt for the same, and the county treasurer shall certify to the state auditor the amount so returned to the state treasurer.

§ 713. FUNDS CONTROLLED AND PAID OUT BY DISTRICT TREASURER.] All funds shall be kept in the possession or under the control of and paid out by the district treasurer, except as otherwise provided in this chapter, and he shall keep one general account for each district of the entire receipts and expenditures, and separate itemized accounts as herein provided for each class of receipts and expenditures. His books shall at all times show by entries under proper heads all receipts of funds and payments made therefrom, so as to enable any person readily to ascertain any balance in account of any fund.

§ 715. APPORTIONMENT OF STATE TUITION FUNDS BY COUNTY SUPERINTENDENT.] Within thirty days and in not less than twenty days after receiving the certificate of apportionment from the superintendent of public instruction and the certificate from the county auditor as provided for in section 722 of this chapter the county superintendent shall apportion separately to the several school districts, special districts, independent districts, and districts organized under special laws which are entitled to any portion of the state tuition and special funds within the county in proportion to the number of children residing in each over six and under twenty years of age, excluding all married persons, as appears from the last enumera-

tion authorized by law upon which the superintendent of public instruction made the apportionment to the several counties, and he shall immediately notify each district treasurer of the amount of money due his school district, and shall certify to the county treasurer and to the county auditor the amount due each school district. The county treasurer shall deliver to the several district treasurers upon the order of the county auditor the amounts apportioned to their respective districts, taking a receipt therefor.

§ 716. SPECIAL AND INDEPENDENT DISTRICTS AND DISTRICTS ORGANIZED UNDER SPECIAL LAWS ENTITLED TO TUITION FUNDS.] Special and independent school districts and districts organized under special laws shall be entitled to receive their proportion of the state and special tuition funds; provided, that the clerk or secretary of the board of education thereof shall make a report to the county superintendent of the enumeration of children of school age therein at the time and in the manner prescribed in this chapter.

§ 719. COUNTY TREASURER TO KEEP ACCOUNTS WITH SCHOOL CORPORATIONS.] Each county treasurer shall keep a regular account with each school corporation, in which he shall charge himself with all taxes collected by levy of the district school board and all sums apportioned to the district by the county superintendent or other authority, and all sums received for the district, and shall credit himself with all payments made to the treasurer of the district, distinguishing between the items paid by apportionment, those from county taxes, and those from other sources. He shall also credit himself with all payments for redemption or indorsement of warrants in the collection of taxes and shall deliver to the district treasurer a duplicate tax receipt for the amount of each warrant so endorsed or redeemed together with all warrants so redeemed, at the time of making other regular payments to the district treasurer. To these credits, to balance the accounts, he shall add all items for legal fees, for collection and other duties.

§ 720. SCHOOL TAXES, HOW AND WHEN COLLECTED.] It shall be the duty of the county treasurer to collect the taxes for school purposes at the same time and in the same manner that the county and state taxes are collected, and full power is hereby given him to sell property for school taxes the same as is provided by law for the collection of other taxes. Whenever an error occurs in any school corporation's tax list the district school board or board of education in special or independent districts or districts organized under special laws may correct such errors and refund such taxes improperly collected. All penalties and interest collected on delinquent school taxes shall be applied to the proper fund to which such delinquent taxes belong.

§ 722. TAX, HOW LEVIED, HOW APPORTIONED. APPORTIONMENT OF DELINQUENT TAXES.] 1. The county auditor of each county shall at the time of making the annual assessment and levy of taxes, levy a tax of one dollar on each elector in the county for the support of common schools, and a further tax of two mills on the dollar

on all taxable property in the county, to be collected at the same time and in the same manner as other taxes are collected, which shall be apportioned by the county superintendent of schools among the school districts of the county.

2. It shall be the duty of the county auditor on or before the third Monday in February, May, August and November in each year, to certify to the county superintendent of schools the amount of such county tuition fund, which the county superintendent of schools shall apportion among the several school districts in the same form and manner as provided for the apportionment of the state tuition fund. The county superintendent shall file with the county auditor and the county treasurer a certified statement showing the amount apportioned to each district.

3. It shall also be the duty of the county auditor to certify at the time herein specified the amount of delinquent taxes collected for the special tuition fund prior to those levied for the year 1899, which amounts shall be apportioned by the county superintendent of schools as herein provided; and the county treasurer shall pay such amounts to the district treasurers the same as other special funds are paid.

Approved March 6, 1899.

CHAPTER 84.

[H. B. 143.]

PUPILS FROM OTHER DISTRICTS.

AN ACT to Amend Section 696 of Article 6 of Chapter 9, Entitled Education, of the Revised Codes of North Dakota of 1895.

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

§ 1. AMENDMENT.] That section 696 of article 6 of chapter 9 be amended so as to read as follows:

§ 696. PUPILS FROM OTHER DISTRICTS.] It shall have the power to admit to the schools in the district pupils from other districts when it can be done without injuring or overcrowding such schools, and shall make regulations for their admission and the payment of their tuition. It shall have the power to arrange with the board of an adjacent district for sending to such district such pupils as can be conveniently taught therein, and for paying their tuition. It shall have the power to admit to the schools in the district pupils residing in unorganized territory adjacent to the district, and shall arrange with the parents or guardians of such pupils for paying their tuition; but in no instance shall a board refuse school privileges to nor collect tuition from pupils residing in such adjacent unorganized territory if the parents of such pupils are property holders in

the district and pay taxes. It shall also have the power to make proper and needful rules for the assignment and distribution of pupils to and among the schools in the district and their transfer from one school to another.

Approved March 9, 1899.

CHAPTER 85.

[S. B. 126.]

PHYSICAL EDUCATION.

AN ACT Relating to Physical Education as a Regular Branch of Instruction in the Public Schools of the State and Educational Institutions Receiving Aid from the State.

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

§ 1. PHYSICAL EDUCATION.] That physical education, which shall aim to develop and discipline the body and promote health through systematic exercise, shall be included in the branches of study now required by law to be taught in the common schools, and shall be introduced and taught as a regular branch, to all pupils in all departments of the public schools of the state, and in all educational institutions supported wholly or in part by money from the state.

§ 2. DUTY OF BOARDS OF EDUCATION.] It shall be the duty of all boards of education and boards of educational institutions, receiving money from the state, to make provision for daily instruction in all the schools and institutions under their respective jurisdiction, and to adopt such method or methods as will adapt progressive physical exercise to the development, health and discipline of the pupils in the various grades and classes of schools and institutions receiving aid from the state.

Approved March 8, 1899.

CHAPTER 86.

[H. B. 35.]

EDUCATION OF BLIND CHILDREN.

AN ACT Empowering the Governor to Enter Into Contract for the Care and Education of Blind Children.

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

§ 1. INSTRUCTION OF BLIND CHILDREN.] The governor is hereby authorized to contract with the State of South Dakota, or with

the State of Minnesota, for the care and instruction of blind children of school age, and shall authorize the state auditor to issue warrants upon the state treasury for that purpose.

§ 2. EMERGENCY.] Whereas, there is no provision of law for the care and instruction of the blind, therefore, an emergency exists, and this act shall take effect and be in force from and after its passage and approval.

Approved March 7, 1899.

ELECTION.

CHAPTER 87.

[H. B. 70.]

PUBLICATION OF ELECTION RETURNS.

AN ACT to Amend Section 527 of the Revised Codes of 1895, Relating to the Canvass and Publication of Election Returns and Issuing of Certificates of Election.

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

§ 1. AMENDMENT.] Section 527 of the Revised Codes of 1895 is hereby amended to read as follows:

§ 527. ABSTRACT OF VOTES. CERTIFICATE OF ELECTION. PUBLICATION OF ELECTION RETURNS.] On the fifteenth day after the close of any election, or as soon as the returns are received, the county auditor shall call to his assistance a majority of the county commissioners of the county or the county treasurer, county judge and one county commissioner, and none of the persons so called shall be candidates for office, unless there is not sufficient of such officers who are not candidates, and shall proceed to open such returns and make abstracts of the votes in the manner following: The abstract of votes for member of congress, governor, state auditor, commissioner of insurance, commissioner of agriculture and labor, state treasurer, secretary of state, attorney general, commissioners of railroads, superintendent of public instruction, lieutenant governor shall be on one sheet; the abstract of votes for members of the legislative assembly shall be on one sheet; the abstract of votes for county and precinct officers shall be on one sheet; and it shall be the duty of the county auditor immediately to make out a certificate of election to each of the persons having the highest number of votes for members of the legislative assembly, county and precinct officers respectively and to deliver such certificate to the person entitled thereto on his making application to the county auditor therefor; provided that when a tie shall exist between two or more persons for the senate

and house of representatives the county auditor shall give notice to the sheriff of the county who shall immediately advertise another election giving at least ten days notice. It shall be the duty of the county auditor of each county on receipt of the returns of any election to make out his certificate, stating therein the compensation to which the judges and clerks of election may be entitled for their services and lay the same before the board of county commissioners at their next session, and the said board shall order the compensation aforesaid to be paid out of the county treasury. And immediately after canvassing the returns and making the abstract of votes as provided in this section, the county auditor shall make a certified copy of each abstract and forward it to the secretary of state, and also cause to be published in at least one of the newspapers of the county in tabular form the vote by precincts for each officer and proposition, voted for at said election, and such publication to be paid for at a rate not exceeding the rate paid for publishing county commissioners' proceedings. If the county auditor is a candidate for office he shall take no part in the canvass, but shall act as clerk of such board of canvassers, and the two officers called to the assistance of the county auditor to make such canvass shall call to their assistance one of the officers mentioned in this section who is not a candidate and if there is no such officer, they shall call to their assistance a justice of the peace and it shall thereupon be their duty at once to attend and canvass such returns as provided by law.

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

Approved March 9, 1899.

EMINENT DOMAIN.

CHAPTER 88.

[H. B. 179.]

REPEALING LAWS OF 1897.

AN ACT to Repeal Chapter 29 of the Session Laws of 1897, Relating to Assessments of Damages Under the Law of Eminent Domain.

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

§ 1. REPEAL.] Chapter twenty-nine (29) of the Session Laws of 1897 is hereby repealed.

Approved March 8, 1899.

ENCUMBRANCES.

CHAPTER 89.

[S. B. 74.]

THE TERM DEFINED.

AN ACT to Amend Section 3549 of the Revised Codes of North Dakota,
Relating to Encumbrances.

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

§ 1. AMENDMENT.] That section 3549 of the Revised Codes of North Dakota be and the same is hereby amended to read as follows:

§ 3549. ENCUMBRANCES DEFINED.] The term "encumbrances" includes taxes, assessments and all liens upon all real property. Whoever conveys real estate by deed or mortgage containing a covenant that it is free from all encumbrances, when an encumbrance appears of record to exist thereon whether known or unknown to him shall be liable in an action of contract, to the grantee, his heirs, executors, administrators, successors, grantees or assigns for all damages sustained in removing the same.

§ 2. EMERGENCY.] Whereas, an emergency exists in that there is now no law enabling a grantee to recover the expense and damage incurred in removing a cloud from his title; therefore, the act shall be in force from and after its passage and approval.

Approved February 21, 1899.

FERRIES.

CHAPTER 90.

[H. B. 162.]

RELATING TO FERRIES.

AN ACT to Amend Section 1168 of the Revised Codes of North Dakota,
Relating to Ferries.

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

§ 1. AMENDMENT.] That section 1168 of the Revised Codes of North Dakota be amended to read as follows:

§ 1168. The board of county commissioners of the county to whom application shall be made for a ferry in the manner hereinafter provided, is hereby authorized and it shall be its duty to grant a lease of such ferry for a term not exceeding fifteen years, to such person or persons as shall bid, and secure the payment of, the highest amount of rent for the same, such lease to be executed by the board of county commissioners as lessors, and such bidder as lessee; and such board shall be empowered to extend to such person the lease so granted to any person putting in a steam ferry, at the same rate as previously paid; provided, that such extended time shall not exceed fifteen years from the time of the granting of the first lease; and when in the opinion of the board of county commissioners of the county wherein such lease is granted the rates fixed by law for crossing such ferry are too high, it shall have the right to fix such rates as in its judgment may seem just. Provided, that upon the petition of fifty or more persons owning taxable property and residing in said county, the county commissioners shall survey, lay out and keep in repair a public highway to and from said ferry.

§ 2. EMERGENCY.] Whereas, there is now no law providing for public highways to and from ferry landings where license has been obtained to operate a ferry, an emergency exists; therefore, this act shall take effect from and after its passage and approval.

Approved March 8, 1899.

FISH COMMISSIONER.

CHAPTER 91.

[S. B. 140.]

DUTIES OF COMMISSIONER.

AN ACT to Prescribe Certain Powers, Duties and Compensation of the State Fish Commission of North Dakota, and to Appoint Deputy Fish Wardens, and to Prescribe Their Powers, Duties and Compensation, and to Amend Section 7682 of the Revised Codes of 1895, Relating to Seines and Nets to be Destroyed.

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

§ 1. DEPUTY FISH WARDENS, HOW APPOINTED.] The state fish commissioner of North Dakota is hereby authorized to appoint, and shall appoint two deputy fish wardens in each and all counties in this state, and additional deputy fish wardens wherever and whenever he may deem it advisable. Each deputy fish warden shall be an elector of the county for which he is appointed, and before entering upon the duties of his office shall take and subscribe to an oath to support the constitution of the United States and that of the State of North Dakota, and that he will faithfully discharge the duties of his office, according to the best of his ability, which oath shall be placed in the hands of the state fish commissioner of North Dakota for filing. Each deputy fish warden shall hold his office at the pleasure of the state fish commissioner of North Dakota, or until disqualified for any reason.

§ 2. POWERS AND DUTIES OF THE STATE FISH COMMISSIONER OF NORTH DAKOTA AND DEPUTIES.] For the purpose of enforcing the laws of this state for the protection of fish, the state fish commissioner of North Dakota and his deputies shall have the powers conferred by law on constables. It shall be the duty of each deputy fish warden diligently to inform himself of all violations of such laws, and to prosecute the same, and to arrest the party or parties so violating them with a warrant sworn out before any justice of the peace of the county in which the offense is committed. If caught in the violation thereof, at the time of his arrest, said party or parties may be arrested therefor without a warrant, and he or they shall be at once taken before a court having jurisdiction of the offense and a warrant issued, when the same proceedings shall thereafter be had as if a warrant had been issued before his or their arrest; but no person shall be arrested without a warrant for

any violation when not engaged in such violation at the time of arrest. Upon conviction had for violation of any of the provisions of this section and act, or any other law of this state governing or pertaining to the matter of fish, there shall be paid to the state fish commissioner of North Dakota, or the deputy fish warden, for his own use and benefit, who shall make the arrest, a fee of ten dollars (\$10) to be taxed and collected as a part of the costs of the suit.

§ 3. THE STATE FISH COMMISSIONER OF NORTH DAKOTA AND THE FISH DEPUTIES SHALL SEIZE FISH. HOW THEY SHALL BE DISPOSED OF.] It shall be the duty of the state fish commissioner of North Dakota and his deputies, at any and all times to seize and take possession of any and all fish which have been caught, taken, killed, shipped or received for shipment, and in possession or under control, contrary to the provisions of the laws of this state. Such seizures may be made without a warrant. Any court having jurisdiction of the offense, upon receiving by oath or affirmation, proof of probable cause for belief in the concealment of any fish caught, taken, killed, shipped or received for shipment, had in possession or under control, contrary to the provisions of the laws of this state, shall issue a search warrant and cause a search to be made therefor, in any place particularly described in said warrant, and to that end, may cause any building, enclosure or car to be entered, and any apartment, chest, box, trunk, locker, crate, basket or package to be broken open and the contents examined. The state fish commissioner of North Dakota, or the deputy fish warden taking or seizing such fish, shall, as soon as possible thereafter, sell the same to any person residing in this state except to himself, desiring or willing to buy such fish. The state fish commissioner of North Dakota, or the deputy fish warden making such seizure and sale, shall give a written certificate, officially signed, to the purchaser that from him such fish were legally obtained and possessed. The purchaser shall show said certificate of the legal purchase and possession of such fish to the state fish commissioner of North Dakota, or to any deputy fish warden, upon a written request from such officer so to do. Any person within this state thus acquiring such fish from such officer, shall have the right to deal therewith as if the same had been killed or possessed in accordance with the laws of this state. The state fish commissioner of North Dakota or the deputy fish warden making such seizure and sale shall be entitled to two-thirds of the proceeds thereof, and the other one-third shall be paid to the treasurer of the county where such fish were seized; and such treasurer's receipt therefor, filed in the office of the state fish commissioner of North Dakota.

§ 4. RESISTING OFFICER. PENALTY.] Whoever shall resist or obstruct any of the fish officers of this state, by threat or otherwise, in the discharge of their duties under this act shall be guilty of a misdemeanor; and upon conviction therefor shall be punished by a fine of not less than twenty dollars nor more than fifty dollars, and

the costs of the prosecution, or by imprisonment in the county jail for not less than ten days, nor more than thirty days, or by both such fine and imprisonment, in the discretion of the court. Upon conviction had for any violation of the provisions of this section, there shall be paid to the state fish commissioner of North Dakota, or the deputy fish warden, for his own use and benefit, who shall make the arrest, a fee of ten dollars (\$10), to be taxed and collected as a part of the cost of the suit.

§ 5. INDIANS SUBJECT TO FISH LAWS.] It shall be unlawful for any Indian who is a ward of the United States government to fish in any waters within this state at any time, except in such waters as are known to be within Indian reservations. It shall be the duty of the state fish commissioner of North Dakota, or any of his deputies to arrest any Indian found fishing in violation of this act. It shall be the duty of the state's attorney of any county within this state to prosecute any Indian so arrested under the provisions of this act, and upon conviction such Indian shall be deemed guilty of a misdemeanor, and be punished by a fine of not less than twenty-five dollars nor more than fifty dollars, or may be imprisoned in the county jail not less than ten days nor more than thirty days, or may be subject to both such fine and imprisonment. Upon conviction had for any violation of the provisions of this section there shall be paid to the state fish commissioner of North Dakota, or the deputy fish warden, for his own use and benefit, who shall make the arrest, a fee of ten dollars (\$10), to be taxed and collected as a part of this suit.

§ 6. AMENDMENT.] That section 7682 of the Revised Codes of 1895 is hereby amended to read as follows:

§ 7682. SEINES AND NETS TO BE DESTROYED.] Every seine, net or other unlawful device used, or intended to be used, to take, catch, kill or destroy any fish in this state, contrary to the laws thereof, is forfeited to the state; and it is the duty of the state fish commissioner of North Dakota, and every deputy fish warden of this state, to seize and destroy, with a warrant duly issued, such seines, nets, or other unlawful device whenever the same are being used in defiance of the laws of this state; and the deputy fish warden who shall seize and destroy such seines, nets or other unlawful devices, shall immediately thereafter report the facts to the state fish commissioners of North Dakota.

§ 7. DEPUTY FISH WARDENS SHALL MAKE REPORTS OF THEIR DOINGS.] Each and all deputy fish wardens shall report to the state fish commissioner of North Dakota all procedures had under this act in way of arrests and convictions; their fees in each case, seizures and sale of fish illegally held or possessed; of whom seized, to whom sold, and the amount of proceeds derived by them therefrom, and also give such additional information and recommendations as will, in their opinion, prove of value to the service. All such reports may be made at any time, but not later than October first of each year.

§ 8. RIGHT AND DUTY OF PEACE OFFICERS.] Nothing in this act shall be so construed as to deprive any peace officer of this state of the right and duty to arrest and bring to punishment, under the laws of this state, any person violating the provisions of this act.

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

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

Approved March 8, 1899.

FIREMEN'S ASSOCIATION.

CHAPTER 92.

[H. B. 24.]

VOLUNTEER FIREMEN'S ASSOCIATION.

AN ACT to Amend Section 2464 of the Revised Codes, Relating to Volunteer Firemen's Association.

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

§ 1. AMENDMENT.] Section 2464 of the Revised Codes is amended to read as follows:

§ 2464. STATE AUDITOR TO ISSUE WARRANTS.] The state auditor on the first day of June thereafter shall issue and deliver to the treasurer in each city, town or village having an organized fire department entitled to the benefits of this article his warrant upon the state treasurer for an amount equal to two per cent of the premiums received upon policies issued on property in any such city, town or village, which warrants shall be numbered consecutively and shall each specify the date of its issuance and to whom payable, and such warrants shall be paid by the state treasurer to the treasurer of such city, town or village upon presentation thereof, and when so received by said treasurer the same shall be paid over to said company or companies in equal proportion, having a membership of at least fifteen members for a period of eight months prior to the date of the certificate of the clerk, as provided in section 2462, and having the management of at least one steam, hand or fire engine, hook and ladder truck or hose cart, upon the written order of such company or companies, approved by the city council, trustees or other governing body of such city, town or village; provided, that in cities, towns and villages having a paid fire department, the

amount so received by the city, town or village treasurer shall be placed in a fund to be disbursed by the city council, trustees or other governing body of such city, town or village in maintaining such fire department.

§ 2. EMERGENCY.] Whereas, the law as it now exists is not in accordance with the best interests of the voluntary firemen's association of the state; therefore, an emergency exists, and this act shall take effect and be in force from and after its passage and approval.

Approved March 6, 1899.

GAME AND FISH.

CHAPTER 93.

[S. B. 117.]

PROTECTION OF GAME AND FISH.

AN ACT Relating to the Protection of Game and Fish, the Appointment of a State Game Warden, the Issuing of Permits to Hunt, the Disposition of Money Received from the Sale of Permits and Enacting Other Provisions Relating thereto and Providing Penalties for Violation Thereof.

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

§ 1. GAME WARDEN, HOW APPOINTED, BOND, DUTIES.] There shall be appointed by the governor a state game warden, whose term of office shall be two years, commencing on the first Tuesday in April next succeeding his appointment and until his successor is appointed and qualified. He shall give a bond to be approved by the governor, in the sum of two thousand dollars, conditioned for the faithful performance of his duties. It is the duty of the state game warden to superintend and aid in the enforcement of all laws of this state for the preservation of game therein. He shall appoint deputy game wardens as follows: In each county having less than three thousand inhabitants, one deputy; in each county having more than three thousand inhabitants and not less than seven thousand inhabitants, two deputies; in every other county three deputies, and special deputies wherever and whenever he deems it advisable. Each deputy shall be an elector of the county for which he is appointed, and shall hold office at the pleasure of the state game warden, or until disqualified for any reason.

§ 2. UNLAWFUL TO HUNT WITHOUT PERMIT.] It shall be unlawful for any person to hunt, kill or wound in this state any of

the wild animals or birds, hereinafter mentioned without having first obtained a permit as hereinafter provided, which permit shall be subject to inspection of any person upon demand, and any person violating any of the provisions of this section is guilty of a misdemeanor, and upon conviction thereof shall be fined not less than twenty dollars nor more than fifty dollars, or may be imprisoned in the county jail not more than thirty days, or may be subjected to both such fine and imprisonment; provided, however, that nothing in this section shall prevent any resident of this state or member of his family living at home from hunting on lands owned or controlled by him during the open season as provided by law; provided nothing in this section shall be construed to prevent the children of this state under the age of sixteen years from hunting, they having the written consent of their parents or guardians so to do, during the open season without a permit.

§ 3. PERMITS, FORM OF.] The state game warden shall cause forms of such permits to be printed and across the face of such permits in large red figures shall appear the year for which they are issued, such permits to be substantially as follows:

STATE OF NORTH DAKOTA,

ss.

County of.....

....., a.....resident of North Dakota, is hereby licensed to hunt in North Dakota under the provisions and conditions of the game laws thereof, during the open season of the year..... This permit is non-transferable.

Dated at.....this.....day of.....1.....

County Auditor.

Such permits shall be endorsed by the state game warden and issued by him to the county auditors of the several counties of the state.

§ 4. COUNTY AUDITORS TO ISSUE PERMITS. FEES.] The county auditor shall fill out and issue one of such permits to any person applying therefor on payment of twenty-five dollars, if the applicant is a non-resident of the state; and on payment of seventy-five cents, if applicant is known to the auditor or satisfactorily proven to him to be a resident of this state; provided, that any non-resident who may own cultivated lands, or be carrying on the cultivation of any lands in this state, not less than one-quarter section, for a period of not less than one year prior to the time of making application for such license, shall be entitled to take out a resident's permit, whether such non-resident is the owner of land so cultivated in whole or in part; provided, that such non-resident shall take out such permit in the county where such cultivation is carried on. No permit shall be valid unless endorsed by the state game warden, signed by the county auditor and sealed with the county seal. Such permit shall

authorize the holder to hunt throughout the state either with or without dogs. All permits shall expire on the thirty-first day of December next after their issuance. It shall be unlawful for the state game warden or any of his deputies, or any county auditor, to issue to any person any complimentary or special permit, or in any way, directly or indirectly, to grant permission to or authorize any person to violate any of the provisions of the game laws of this state, and any such officer so doing shall for each offense forfeit and pay the sum of not less than fifty dollars, nor more than two hundred dollars, with costs, to be recovered in civil action, for the payment of which sum such officer shall be liable upon his official bond. Any person informing against such officer shall be entitled to one-half of the amount so recovered, the balance to be disposed of as provided in section 7736 of the Revised Codes.

§ 5. DISPOSITION OF FEES.] Twenty per cent of all money received from the sale of permits shall be paid over to the state treasurer by the county auditor of each county on the first day of December of each year and shall be placed in the state general fund. Thirty per cent shall at the same time be paid over to the state game warden and shall be in full payment for his services. Forty per cent shall at the same time be paid over to the deputy game warden of the county, or when there is more than one, be divided equally among them and shall be full payment for their services, and the remaining ten per cent shall be retained by the county auditor for his personal services. And the county auditor of every county shall at the same time file with the state auditor a full report of all resident and non-resident permits issued by him during that year.

§ 6. POWERS AND DUTIES OF GAME WARDENS AND DEPUTIES.] For the purpose of enforcing the laws of this state for the protection of game the state game warden and his deputies shall have all the powers conferred by law upon constables. It shall be the duty of each deputy game warden diligently to inform himself of all violation of such laws and to prosecute the same and to arrest the party so violating them with a warrant sworn out before any justice of the peace of the county in which the offense is committed, said warrant to be issued as provided in section 7891 of the Revised Codes. If caught in the violation thereof at the time of his arrest, a party may be arrested therefor without a warrant, when he shall be at once taken before a court having jurisdiction of the offense and a warrant issued when the same proceedings shall thereafter be had as if a warrant had been issued before his arrest, but no person shall be arrested without a warrant for any such violation when not engaged in such violation at the time of his arrest. Upon any conviction had for any violation of the provisions of this act there shall be paid to the deputy making the arrest such fees as are allowed constables for services in like cases, to be taxed and collected as a part of the costs in the case.

§ 7. SHOOTING OR KILLING RESTRICTED, PENALTY.] Every person who either :

1. Shoots or kills any prairie chicken, pinnated grouse, sharp tailed grouse, ruffled grouse or woodcock between the first day of October and the twentieth day of August following, or any song bird or insect-eating bird, except snipe or plover, at any time; or
2. Shoots, kills or takes any quail, English or Chinese pheasant or wild swan until after the twentieth day of August, A. D. 1905, and after that time between the first day of October and the twentieth day of August following; or
3. Shoots or kills any wild duck between the first day of January and the twentieth day of August following; or
4. Shoots or kills any wild goose, crane or brant between the first day of May and the twentieth day of August following; or
5. At any time kills or shoots any wild duck, goose or brant with any swivel gun or other gun except such as is commonly shot from the shoulder, or in hunting such birds makes use of any artificial light or battery; or
6. Uses or employs any trap, snare, net or bird lime, or medicated, drugged or poisoned grain or food to capture or kill any of the birds mentioned in subdivisions 1, 2, 3 or 4 of this section; or
7. Wantonly destroys any nest or eggs of any of the birds mentioned in subdivisions 1, 2, 3 or 4 of this section; or
8. Shoots or kills any buffalo, moose, elk, deer, antelope, caribou or mountain sheep at any time, or any deer between the tenth day of December and the tenth day of October following; or
9. Shoots, kills, traps or takes any beaver or otter at any time prior to the tenth day of November, A. D. 1905, or thereafter between the tenth day of December and the tenth day of November following; or
10. At any time uses or employs any hound or dog in running or driving any of the animals mentioned in subdivision 8 of this section, or
11. Sets any spring or other gun, trap, snare or other device to kill, wound or destroy any of the animals mentioned in subdivision 8 of this section; or
12. Shoots or kills in any one day more than twenty-five of the game birds mentioned in subdivisions 1, 2, 3 or 4 of this section, or in any one season more than five of the animals mentioned in subdivision 8 of this section;

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

§ 8. HAVING SAME IN POSSESSION.] Every person who has in

his possession any of the birds or animals mentioned in the last section after five days from the close of the respective seasons during which it shall be lawful to hunt or kill the same, shall be guilty of a misdemeanor, and upon a conviction thereof before any justice of the peace of the county, is punishable in the manner and to the extent provided in the last section for the killing of the same; provided, if any person having the possession of any such birds or game and desires to keep the same for a longer period than five days he may apply to the state game warden, or his deputy, for a tag, properly stamped, and describing such game, which shall be attached to each bird or separate part of game and shall remain securely fastened thereto until the same is used for food.

§ 9. CATCHING FISH RESTRICTED.] Every person who either,

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

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

§ 10. GAME WARDENS, DEPUTIES AND PEACE OFFICERS SHALL SEIZE GAME.] It shall be the duty of the state game warden and his deputies and all peace officers of this state at any and all times to seize and take possession of any and all animals or birds which have been caught, taken, killed, shipped or received for shipment, had in possession or under control contrary to the provisions of the laws of this state. Such seizure may be made without a warrant. Any court having jurisdiction of the offense upon receiving by oath or affirmation proof of probable cause for belief in the concealment of any birds or animals caught, taken, killed, shipped or received for shipment, had in possession or under control contrary to the provisions of the laws of the state shall issue a search warrant and cause a search to be made therefor in any place particularly described in said warrant, and to that end may cause any building, inclosure, or car to be entered and any apartment, chest, box, locker, crate, basket or package to be broken open and the contents thereof examined. Deputy game wardens and all peace officers taking or seizing any such animals or birds shall at once report the facts attending the same to the state game warden and shall at his request turn the same over to him. After such taking such animals or birds shall be subject to the direction and control of the state game warden and shall be considered in his possession.

§ 11. GAME SEIZED AND SOLD. HOW PROCEEDS DISPOSED OF.] Any animals or birds caught, taken, killed, shipped or received for shipment, had in possession or under control contrary to the provisions of the laws of this state, which may come into the possession of the state game warden, either directly or through any deputy or peace officer, shall be sold or disposed of within this state, and the state game warden may issue a certificate to the person purchasing certifying that the same were legally obtained and possessed and any one so acquiring same within this state shall have the right to deal therewith as if the same had been killed or possessed in accordance with the law of this state. The deputy game warden or peace officer making such seizure shall be entitled to two-thirds of the proceeds of the sale of any of the animals or birds sold or disposed of as herein provided, and the state game warden shall be entitled to one-third of the proceeds of such sale.

§ 12. RESISTING OFFICER. PENALTY.] Whoever shall resist or obstruct any of the said officers by threat or otherwise, in the discharge of their duties under this act, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than twenty dollars nor more than fifty dollars and the costs of prosecution, or by imprisonment in the county jail for not less than ten days nor more than thirty days, or by both such fine and imprisonment.

§ 13. CONSTRUCTION OF GAME LAWS.] All provisions of the laws of this state relating to the having in possession or under control any game bird or animal, or to the shipment of the same out of the state, shall be construed to include any and all parts of the meat thereof.

§ 14. PROPOGATION OF GAME AND FISH.] The commissioners of any county may expend not to exceed the sum of one hundred dollars per annum for the purpose of propogating game or fish, when it shall appear to them that such an expenditure would be beneficial to the county.

§ 15. INDIANS SUBJECT TO GAME LAWS.] It shall be unlawful for any Indian who is a ward of the United States government to hunt on any lands within this state at any time, except upon such lands as are known to be Indian reservations lands. It shall be the duty of the state game warden, his deputies and all peace officers of this state, to arrest any Indian found hunting in violation of this act. It shall be the duty of the state's attorney in any county within this state to prosecute any Indian so arrested under the provisions of this act, and upon conviction such Indian shall be deemed guilty of a misdemeanor and be punishable by a fine of not less than twenty dollars nor more than fifty dollars, or may be imprisoned in the county jail not less than ten days nor more than thirty days, or may be subjected to both such fine and imprisonment; provided, that the provision of this section shall not apply to any Indian who takes out a permit to hunt, as provided for other persons.

§ 16. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.
Approved March 8, 1899.

GEOLOGICAL SURVEY.

CHAPTER 94.

[S. B. 131.]

PROVIDING FOR GEOLOGICAL SURVEY.

AN ACT Providing for a Geological Survey of North Dakota.

Whereas, Recognizing the vast importance to a commonwealth of the development of its mineral resources, the United States government has granted to the State of North Dakota several thousands of acres of land, and

Whereas, In accepting this grant from the government the state has appointed a state geologist to make investigations and to aid in the development of these resources but has never provided means with which to carry on this work, and

Whereas, In order to show the good faith of this state to the federal government in accepting this land grant and in order to make known the mineral resources of the state that capital may be induced to develop the same, the state geologist is hereby directed to begin a careful geological survey of various parts of the state, and to publish whatever reports may be needed to bring to the attention of the public the mineral resources of North Dakota;

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any funds in the state treasury not otherwise appropriated the sum of six hundred dollars (\$600) biennially to meet the expenses of traveling and other necessary expenses connected with a geological survey of the state in accordance with a previous act providing for a geological survey.

§ 2. EMERGENCY.] *Whereas*, an emergency exists inasmuch as there are no funds with which to begin this work; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved February 24, 1899.

GRASSHOPPERS.

CHAPTER 95.

[H. B. 172.]

DESTRUCTION OF GRASSHOPPERS.

AN ACT to Provide for the Destruction of Grasshoppers and Rocky Mountain Locusts.

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

§ 1. DUTY OF COUNTY COMMISSIONERS.] That the board of county commissioners shall have power, and it shall be their duty to order the plowing of land and such other means as they deem expedient wherever and whenever they deem it necessary to cause the destruction of grasshoppers and Rocky Mountain locusts and grasshopper and Rocky Mountain locusts eggs, and said plowing and other means shall be done at the time and in the manner directed by said board of county commissioners by the owner or incumbrancer, if any, of said land immediately after receiving notice thereof from said board of county commissioners.

§ 2. NOTICE, HOW AND WHEN SERVED.] Where the owner of the land on which said board shall have decided plowing must be done for the purposes herein specified, cannot with reasonable diligence be served with notice within the state, it shall be sufficient to serve the said notice by publication thereof for two successive issues in the official newspaper nearest said tract.

§ 3. MUST PLOW IN FIVE DAYS.] If the owner or incumbrancer, if any, shall fail to plow said tract or tracts as ordered and directed by said board of county commissioners within five days after notice as herein provided, then, in that event said board of county commissioners shall cause said tract or tracts to be plowed, or so much thereof as may be by them deemed necessary, and audit and pay for said work out of the general fund of said county, upon warrant as in other cases made and provided.

§ 4. EXPENSE A LIEN UPON LAND.] Immediately after the said accounts are audited and paid by said county commissioners it shall be the duty of the county auditor to certify to the county treasurer the amount so expended upon each piece and parcel of land, which certificate shall contain the name of the record owner or incumbrancer of said tract, a true description of said land, the amount paid by the county for plowing done thereon, and the county

treasurer shall thereupon enter said amount against said land as taxes are entered against land, and the said amount shall constitute a lien upon said land prior to all other incumbrances, and shall bear interest at the rate of seven per cent per annum from date of entry by the county treasurer and collection thereof may thereafter be made and enforced in the same manner as delinquent taxes are enforced and collected against real property.

§ 5. PAYMENT OUT OF GENERAL FUND.] When the board of county commissioners shall deem the plowing of state land necessary for the purposes herein specified they shall order the same done, and payment therefor may be made out of the general fund of the county upon warrant as in other cases provided. Provided, however, that no growing crops shall be destroyed under the provisions of this act. Provided, that where the board of county commissioners shall deem it necessary to cause plowing upon government land held by resident claimants, or other means to cause the destruction of grasshoppers and Rocky Mountain locusts, said claimant shall be liable to the county in a civil action for all moneys necessarily expended in carrying out the directions of the board of county commissioners for the purposes herein specified.

§ 6. EMERGENCY.] Whereas, an emergency exists in that there is great danger of counties being infested with grasshoppers or Rocky Mountain locusts this year; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 9, 1899.

GUARDIAN.

CHAPTER 96.

[S. B. 65.]

APPOINTMENT OF GUARDIAN.

AN ACT to Amend Section 5226 of the Revised Codes of the State of North Dakota, Relating to the Appointment of a Guardian ad litem. Presented as a Substitute Bill for Senate Bills Nos. 7 and 32 by the Committee on Judiciary.

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

§ 1. AMENDMENT.] That section 5226 of the Revised Codes of North Dakota be and the same is hereby amended and re-enacted to read as follows:

§ 5226. GUARDIAN, HOW APPOINTED.] The guardian shall be appointed.

1. When the infant is plaintiff, upon the application of the infant, if he is of the age of fourteen years; or if under that age, upon the

application of his general or testamentary guardian, if he has any, or of a relative or friend of the infant. If made by a relative or friend of the infant, notice thereof must first be given to such guardian, if he has one; if he has none, then to the person with whom such infant resides.

2. When the infant is defendant, upon the application of the infant, if he is of the age of fourteen years and applies within twenty days after the service of summons. If he is under the age of fourteen or neglects so to apply, then upon the application of any other party to the action, or of a relative or friend of the infant, after notice of such application being first given to the general or testamentary guardian of such infant, if he has one within this state: if he has none, then to the infant himself, if over fourteen years of age and within the state; or, if under that age and within the state, to the person with whom such infant resides. In actions for the partition of real property, or for the foreclosure of a mortgage or other instrument, and in all actions affecting the title to real property or wherein such infant is a proper or necessary party defendant. when an infant resides out of this state, the plaintiff may apply to the court or judge thereof, in which the action is pending, and will be entitled to an order designating some suitable person to be the guardian for the infant defendant for the purpose of the action, unless the infant defendant or some one in his behalf within a number of days after the service of a copy of the order, which number of days shall be in the said order specified, shall procure to be appointed a guardian for the said infant; and the court shall give special directions in the order for the manner of service thereof, which may be upon the infant himself or by service upon any relation or person with whom the infant resides, and either by mail or personally upon the person so served. And in case an infant defendant having an interest in the event of the action shall reside in any state with which there shall not be a regular communication by mail, on such fact satisfactorily appearing to the court, the court may appoint a guardian ad litem for such absent infant party, for the purpose of protecting the right of such infant in said action, and on such guardian ad litem process, pleadings and notices in the action may be served in like manner as upon a party residing in this state.

§ 2. EMERGENCY.] Whereas, an emergency exists in that there is no definite provision of law for making an infant residing out of this state a party defendant in certain actions; therefore, this act shall take effect and be in force from and after its passage and approval.

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

Approved February 24, 1899.

HIGHWAYS.

CHAPTER 97.

[S. B. 164.]

PRESCRIBING DUTIES OF SUPERVISORS.

AN ACT Amending Sections 3, 5, 6, 7, 8, 9, 10, 11, 13, 14 and 21 of Chapter 112 of the Laws of 1897, Being an Act Relating to Opening and Vacating Highways, Prescribing the Duties of Supervisors and County Commissioners in Relation Thereto and Regulating Appeals from the Awards Thereof, and for the Repeal of Sections 1050 to 1075, both Inclusive, of the Revised Codes of North Dakota.

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

§ 1. AMENDMENT.] That sections 3, 5, 6, 7, 8, 9, 10, 11, 13, 14 and 21 of chapter 112 of the Laws of 1897 be and the same are hereby amended to read as follows:

§ 3. SECTION LINES CONSIDERED PUBLIC ROADS, WHEN.] In all townships in this state outside the limits of incorporated cities, villages or towns, the congressional section lines shall be considered public roads, to be opened to the width of two rods on each side of such section lines, where the same have not already been opened upon the order of the board having jurisdiction as provided by section 4 of this chapter without any survey being had, except where it may be necessary on account of variations caused by natural obstacles, subject, however, to all the provisions of this chapter in relation to assessments of damages.

§ 5. PETITION FOR LAYING OUT, ALTERING OR DISCONTINUING ROADS.] The board having jurisdiction as provided by the provision of the preceding section may alter or discontinue any road, or lay out any new road upon the petition of not less than six legal voters, who own real estate, or who occupy real estate under the homestead laws of the United States, or under contract from the State of North Dakota, in the vicinity of the road to be altered, discontinued or laid out; said petition shall set forth in writing a description of the road and what part thereof is to be altered or discontinued: and, if for a new road, the names of the owners of the land, if known, over which the road is to pass, the point at which it is to commence, its general course, and the point where it is to terminate; provided, that all roads, or parts thereof heretofore or hereafter laid out by authority of the board of county commissioners, or township supervisors, and not open to public use with-

in ten years from the time when so laid out are hereby declared vacant; provided further, that whenever any tract of land is surveyed or sold in tracts less than the original sub-division as established by the government survey thereof, so that any part thereof does not touch upon some of the lines now considered as public roads and so allow the owner of such tract access to a public highway, the board of county commissioners or board of township supervisors may, upon a petition as herein provided, open a cartway or highway along the lines of any such tract or tracts when in the judgment of such board such cartway or highway is necessary; provided, however, that no such cartway or highway shall exceed two rods in width unless in the judgment of such board a roadway two rods in width shall not be sufficient to accommodate the travel thereon. The provisions of this act shall apply to all lands owned by the state or any institution thereof, or held by virtue of any contract with the state, and notice of the altering, laying out or discontinuing of any such cartway or highway shall be served by registered mail upon the board of university and school lands not less than thirty days prior to any such board taking action in regard to altering, laying out or discontinuing such cartway or highway.

§ 6. COPY OF PETITION TO BE POSTED.] Whenever such number of legal voters, determine to petition, as aforesaid, for the alteration or discontinuance of any road, or for laying out any new road, they shall cause a copy of their petition to be posted up in three of the most public places in the county, or township, having jurisdiction thereof twenty days before any action is had in relation thereto.

§ 7. NOTICE TO ALL PARTIES TO BE GIVEN.] When the board having jurisdiction receives a petition in compliance with the preceding sections for laying out, altering or discontinuing any highway, they shall, within thirty days, make out a notice and fix therein a time and place at which they will meet and decide upon such application, and the applicant shall ten days previous to such time so fixed, cause such notice to be given to all occupants of the land through which such highway may pass, which notice shall be served personally or by copy left at the abode of such occupant.

The said board shall also cause copies of such notice to be posted in three public places in said county, or township, at least ten days previous to such meeting; every such notice shall specify, as near as practicable, the highway proposed to be laid out, altered or discontinued, and the tract of land through which the same may pass.

§ 8. EXAMINATION OF PROPOSED HIGHWAY.] The said board upon being satisfied that the notices required in the preceding section have been duly served, proof of which shall be shown by affidavit, shall proceed to examine such proposed highway and shall hear any reasons for or against the laying out, altering or discontinuing the same, and decide upon the application as they deem proper.

§ 9. PROCEEDINGS WHEN ROAD IS LAID OUT, ALTERED OR DISCONTINUED.] Whenever such board of county commissioners or

supervisors shall lay out, alter or discontinue any highway, they shall cause a survey thereof to be made when necessary, and they shall make out an accurate description of the highway so altered, discontinued or laid out, and incorporate the same, in an order to be signed by them, and shall cause such order, together with all the petitions and affidavits of service of notice, to be filed in the office of the county auditor, if by county commissioners, and in the office of the town clerk if by township supervisors, who shall note the time of filing the same; but on the refusal of said board to lay out, alter or discontinue such road they shall note the fact on the back of the petition and file the same as aforesaid. All orders, petitions, and affidavits, together with the award of damages, shall be made out and filed within five days after the date of the order for laying out, altering or discontinuing such highway. But the county auditor or town clerk shall not record such order within thirty days, nor until a final decision is had, and not then unless such order is confirmed, and such order, together with the award, has been recorded by said county auditor or town clerk as the case may require, the same shall be filed in the office of the county auditor. And in case the board having jurisdiction shall fail to file such order within twenty days they shall be deemed to have decided against such application.

§ 10. ORDER OR CERTIFIED COPY. COMPETENT EVIDENCE.] The order laying out, altering or discontinuing any highway, or a copy of the record duly certified by the county auditor or town clerk, as each case may require, shall be received in all courts as competent evidence of the fact therein contained and shall be prima facie evidence of the regularity of the proceedings prior to the making of such order, except in cases of appeal, when such appeal has been taken within the time limited in this chapter.

§ 11. DAMAGES, HOW ASCERTAINED.] The damages sustained by reason of laying out, altering or discontinuing any road may be ascertained by the agreement of the owners and county commissioners or township supervisors, as the case may be, and unless such agreement is made, or the owners shall, in writing, release all claim to damages, the same shall be assessed in the manner hereinafter prescribed before the same is opened, worked or used. Every agreement and release shall be filed in the town clerk's office when with a township and in the county auditor's office when with a county and shall forever preclude such owners of land from all further claim for damages. In case the board and the owners of land claiming damages cannot agree, or if the owner of any land through which any highway shall be laid out, altered or discontinued, is unknown, the board shall in their award of damages specify the amount of damages awarded to all such owners, giving a brief description of such parcel of land in their award; the board having jurisdiction shall assess the damages at what they deem just and right to each individual claimant, with whom they cannot agree. Supervisors shall deposit a statement of the amount of damages assessed with the town

clerk, county commissioners with the county auditor, who shall note the time of filing the same. The board in assessing damages shall estimate the advantages and benefits the new road or alteration of an old one will confer on the claimant for the same as well as the disadvantages.

Any person living on United States land who has made his declaratory statement for the same in the proper land office, shall for all the purposes of this act be considered the owner of such lands.

§ 13. DETERMINATION FINAL FOR ONE YEAR.] The determination of boards of county commissioners, or supervisors of any town in refusing to lay out, alter or discontinue any highway, shall be final (unless such determination shall be appealed from as is hereinafter provided in this act), for the term of one year after the filing of such order or determination in the county auditor's or town clerk's office, as the case may be; and no application for laying out, altering or discontinuing any such highway shall again be acted upon by such board within said time of one year; and in case the determination of any such board in laying out, altering or discontinuing any highway shall be appealed from, as provided in this chapter, and such determination shall be reversed on appeal, the said board shall not, within one year after the making of the determination so reversed on appeal, act again upon an application to lay out, alter or discontinue any such highway.

§ 14. NOTICE TO PARTY TO REMOVE FENCES.] Whenever any public road has been laid out through any inclosed, cultivated or improved lands, in conformity with the provisions of this chapter and the decision of the board laying out such road has not been appealed from, such board shall give the owner or occupant of the land through which such road is laid out twenty days notice, in writing, to remove his fences; if such owner does not remove his fences within twenty days after such notice such board shall cause such fences to be removed and direct the road to be opened and worked; provided, that no inclosure shall be ordered opened between the first day of April and the first day of October.

§ 21. WHEN APPEAL SUSTAINED. DUTY OF THE BOARD.] When an appeal shall have been made from the determination of any board of supervisors or county commissioners, and such determination shall have been reversed or altered, the supervisors or commissioners from whose determination such appeal was taken, shall proceed to lay out, alter or discontinue such highway, in conformity with the decision of such appeal, and the proceedings thereon shall be the same as if they had originally so determined to lay out, alter or discontinue such highway, the amount of damages finally determined and awarded by the supervisors, commissioners or by the court or jury, together with all the charges of officers and other persons necessarily employed in laying out, altering or discontinuing any town or county road, shall be audited by the county commissioners or township supervisors, as the case may be, specifying the amount of charges and damages due each individual, and the

respective amounts shall be certified to by said commissioners or supervisors and by them deposited with the county auditor or township clerk and paid by the county or town, as the case may be. Before any road shall be opened or used, an amount of town orders or county warrants, as the case may be, equal to the damages assessed to individuals, shall be duly issued and deposited with said county auditor or town clerk, as the case may be, for the use and benefit of said individuals, and shall be delivered to him or them on demand. The issuing and depositing of said orders or warrants shall be deemed to be sufficient security for the payment of said damages. In no case shall a town be compelled to pay any damages that may be awarded in laying out, altering or discontinuing any county road.

§ 22. EMERGENCY.] Whereas, there is no provisions of law for laying out roads in unorganized townships, an emergency exists and this act shall take effect and be in force from and after its passage and approval.

Approved March 9, 1899.

HOME FOR ORPHANS.

CHAPTER 98.

[H. B. 167.]

HOMES FOR ORPHANS.

AN ACT to Amend Sections 2 and 5 of Chapter 87 of the Laws of 1897.

Being "An Act Relating to Societies Organized for the Purpose of Securing Homes for Orphans or Abandoned, Neglected or Grossly Ill-treated Children, by Adoption or Otherwise, and Providing Rules for the Regulation of the Same."

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

§ 1. AMENDMENT.] That sections 2 and 5 of chapter 87 of the Laws of 1897, being an act passed by the Fifth legislative assembly of the State of North Dakota and approved March 12, 1897, entitled "An act relating to societies organized for the purpose of securing homes for orphans or abandoned, neglected or grossly ill-treated children, by adoption or otherwise, and providing rules for the regulation of the same," be and the same are hereby amended to read as follows:

§ 2. POWERS OF THE SOCIETY.] That such society shall have the power to receive into its hands and under its control, and may become the legal guardian of any child under fourteen years of

age without his consent, and over fourteen years and under eighteen years with his consent, of the state, who is grossly ill-treated by any person or persons exercising control over it, or who shall have been abandoned or is without a home, or is surrounded by bad or immoral influences, or whose living parent or parents, by written authority, shall assign the custody of the same to such society; and such society is hereby authorized and empowered to consent through its duly authorized agent in the courts of this state, in place of, instead of, and whenever it is by law permitted to the parent or guardian of a minor child, to consent to the adoption of such child in the court, under the laws and in the manner provided for the adoption of children, and such agent of said society shall have power to administer oaths of and acknowledge affidavits in all matters pertaining to the business of such society. That such society shall have the power and authority to enter into contracts with the persons taking the children, but not legally adopting them, as soon as possible after the period of ninety days' trial upon which the child may have been taken has elapsed; and this contract shall provide for the proper care of the child until the age of eighteen years in the case of a girl and twenty-one years in the case of a boy, and shall specify the amount to be paid to the ward at the expiration of the period of the contract; provided, that in no case shall such contract contain any provision of a sectarian or political nature regarding the care, custody or education of such children.

§ 5. IN CASES OF COMPLAINTS.] Whenever a complaint or a petition in writing of two of the commissioners of a county, or two of the town supervisors of any town, or two aldermen of any city, or of two officers of any incorporated village or town, shall be made to the county judge, stating that any minor child or children under fourteen years of age, residing in such county, are in their opinion dependent upon the public for support or have been abandoned or neglected, or are in a state of vagrancy or mendicity, or are in a state of want or suffering, or are in peril of life, health or morality, by cruel or bad treatment, or by the habitual intemperance or grave misconduct of parents or guardians, it shall thereupon be the duty of such county judge to investigate the facts in such case and ascertain whether such child or children are dependent, neglected, abandoned or ill-treated, the residence and so far as possible the whereabouts of the parents, whether the condition and treatment of said children and general surroundings are such as to imperil the life, health or morality in consequence of their surroundings, or of the grave misconduct or habitual intemperance of their parents or guardian, and if said county judge shall so find he shall enter such finding in his office, certifying and directing that such child or children shall be and are turned over to the care and custody of said society for the purpose of adoption into private families or otherwise as to said society seems best, and shall order that it be taken in charge of at once or as soon as it can be conveniently done by said society, and

shall deliver to said society a certified copy of such order, which order shall contain besides such finding a statement of the facts as far as ascertained as to the age of the child, name, nationality, residence, and occupation of the parents or either of them. That upon entering such order the parents of said child shall be released from all parental duties towards, and responsibility for such child, and shall thereafter have no right over or to the custody, services or earnings of such child. That in case any parent or other person having the custody of such child, shall refuse to surrender said child to said society or its agent, said county judge is hereby authorized and empowered to direct the sheriff of the county to take possession of said child; and if so directed, it shall be the duty of the said sheriff to deliver said child to said society or its agent. The said county judge is hereby authorized to compel the attendance of witnesses on such examination, and it shall be the duty of the county attorney, when requested by the county judge to attend any examination on behalf of the petitioners. Any friend of said child may appear in its behalf in said county court, and the said county judge may in his discretion, request any county commissioner, town supervisor, alderman or other officer of the town or city, where such examination is held or where said child resides, to appear in behalf of the child, and the records of such proceedings shall show who, if any one, appeared in behalf of the petitioner or of the child on such examination.

§ 2. EMERGENCY.] Whereas, an emergency exists in this that the said act is conflicting and uncertain as to the ages of children who may be taken in custody by said society and in that there are many children in the state needing the help and assistance of said society which it is now without authority to give; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 9, 1899.

HOSPITAL FOR INSANE.

CHAPTER 99.

[H. B. 171.]

ADDITIONAL BUILDINGS.

AN ACT to Provide for the Erection of Necessary Additional Buildings for the Hospital for the Insane at Jamestown, North Dakota.

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

§ 1. ADDITIONAL BUILDINGS.] To provide for the erection of necessary additional buildings for the hospital for the insane at Jamestown and other needed and necessary improvements and the proper equipment of such buildings, the board of trustees of the state hospital for the insane may issue bonds for such sum or sums of money as can actually be used in the construction of such necessary additional buildings, not exceeding the sum of fifty thousand dollars; said bonds shall be in denominations of one thousand dollars each, shall bear interest at a rate not exceeding six per centum per annum, and shall be payable in twenty years from the date of issue, from the interest and income fund accumulating from the sale, rental or lease of lands donated to the said hospital for the insane by article 19, section 215, division 8 of the Constitution of the State of North Dakota, or from the rental or lease of such lands. The interest on such bonds shall be paid annually on the first day of January of each year and shall be payable from the interest and income accumulating from the sale, rental or lease of lands apportioned to the institution; provided, if at any time there shall not be sufficient money to pay such interest, there is hereby appropriated out of the state treasury, out of funds not otherwise appropriated, a sum sufficient to meet such interest; provided further that a sufficient amount of funds accumulating in the interest and income fund for sale or rental of land or lands appropriated to the hospital for the insane shall be used and applied solely for the payment of interest on such bonds and for the creation of a sinking fund with which to pay such bonds on maturity. The state board of equalization, at the time the other taxes are levied, shall levy a sufficient tax annually to pay the interest on such bonds as the same shall become due, which tax shall be collected in the same manner that other state taxes are collected.

§ 2. MONEY, WHERE DEPOSITED.] All moneys that may arise or be derived from the sale, rental or lease of lands appropriated to the hospital for the insane shall be deposited with the state treas-

urer, to be used exclusively for the benefit of the hospital for the insane.

§ 3. EMERGENCY.] Whereas, an emergency exists in that it is necessary to begin the construction of said additional buildings before July 1st; therefore, this act shall take effect immediately upon its passage and approval.

Approved February 27, 1899.

HUSBAND AND WIFE.

CHAPTER 100.

[H. B. 2.]

RIGHTS OF HUSBAND AND WIFE.

AN ACT to Amend Section 2767 of the Revised Codes of North Dakota, Relating to Rights and Capacity of Husband and Wife.

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

§ 1. AMENDMENT.] That section 2767 of the Revised Codes of North Dakota be and the same is hereby amended to read as follows:

§ 2767. RIGHTS AND CAPACITY OF HUSBAND AND WIFE.] Either husband or wife may enter into any engagement or transaction with the other, or with any other person, respecting property, which the other might, if unmarried. The wife after marriage has with respect to property, contracts and torts the same capacity and rights and is subject to the same liabilities as before marriage, and in all actions by or against her she shall sue and be sued in her own name.

Approved March 7, 1899.

IMMIGRATION.

CHAPTER 101.

[H. B. 31.]

TO PROMOTE IMMIGRATION.

AN ACT to Promote Immigration.

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

§ 1. APPROPRIATION.] There is hereby appropriated, annually, the sum of five hundred dollars, or so much thereof as shall be needed, out of the general funds of the state treasury, not otherwise appropriated, to be used by the commissioner of agriculture and labor in getting out maps and other printed matter for the purpose of promoting and inducing immigration into the State of North Dakota.

§ 2. VERIFIED STATEMENT.] The commissioner of agriculture and labor shall make a verified and itemized statement of his expenses and disbursements incurred under the provisions of this chapter and file the same with the state auditor, who shall thereupon issue his warrant on the state treasurer therefor.

§ 3. EMERGENCY.] Whereas, an emergency exists in that no adequate provision exists for the promotion of immigration, this act shall take effect and be in force from and after its passage and approval.

Approved March 6, 1899.

INSURANCE COMPANIES.

CHAPTER 102.

[S. B. 21.]

PUBLICATION OF STATEMENT.

AN ACT to Amend Section 3119 of Article 6 of the Revised Codes of North Dakota, Relating to the Publication of Annual Statements of Insurance Companies.

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

§ 1. AMENDMENT.] That section 3119 of the Revised Codes of North Dakota is hereby amended to read as follows:

§ 3119. ANNUAL STATEMENT. PUBLICATION THEREOF.] Every insurance company doing business in this state must transmit to the commissioner of insurance a statement of its condition and business for the year ending on the preceding thirty-first day of December, which shall be rendered not later than the first Monday of February in each year. Foreign insurance companies shall have until the following first day of December to transmit their statements of business, other than that taken in the United States. Such statements must be published at least three times in a newspaper of general circulation printed and published in each judicial district of the state in which such insurance company shall have an agency. Statements for publication shall be made out on blanks furnished by the commissioner of insurance and the certificate of authority of the commissioner of insurance for the company to do business in this state shall be published in connection with such statement. Proof of publication shall be filed with the commissioner of insurance in all cases within four months from the time of the filing of the annual statement. Such publications shall be made at the authorized rate for publishing legal notices. The commissioner of insurance shall select three newspapers of general circulation, published in each of the judicial districts, from which such companies shall select one in which such statements shall be published.

§ 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 the publication of the annual statements of insurance companies will be required before July 1, 1899; therefore, this law shall go into force and effect from and after its passage and approval.

Approved February 24, 1899.

LABOR OF CONVICTS.

CHAPTER 103.

[S. B. 123.]

LABOR OF CONVICTS.

AN ACT to Amend Section 1 of Chapter 108 of the Session Laws of 1897, Relating to Labor of Convicts.

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

§ 1. AMENDMENT.] Section 1 of chapter 108 of the Session Laws of 1897 is hereby amended to read as follows:

§ 1. LABOR OF CONVICTS.] No person in any prison, penitentiary or other place of confinement of offenders in this state, shall be required or allowed to work while under sentence thereto, at any trade, industry or occupation wherein or whereby his work, or the product or profit of his work, shall be farmed out, contracted and given, or sold to any person, firm, association or corporation; but this act shall not be so construed so as to prevent the product of the labor of convicts from being disposed of to the state, or any political division thereof, or to any public institution owned or managed by the state or any political division thereof for their own use; provided, that nothing in this act shall prohibit the use of convict labor by the state in carrying on any farming operations or in the manufacture of brick, twine or cordage, or prohibits the state from disposing of the proceeds of such enterprises.

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

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

Approved March 8, 1899.

LEGISLATIVE EMPLOYES.

CHAPTER 104.

[Sub. H. B. 90.]

LEGISLATIVE OFFICERS AND EMPLOYES.

AN ACT to Amend Sections 28 and 29 and to Repeal Section 30 of the Revised Codes of 1895, Relating to Legislative Officers and Employes.

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

§ 1. AMENDMENT.] That section 28 of the Revised Codes of 1895 be amended so as to read as follows:

§ 28. OFFICERS AND EMPLOYES. COMPENSATION.] The following shall be the officers and employes of the senate and 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.

One assistant secretary, whose compensation shall be five dollars per day.

One enrolling and engrossing clerk, whose compensation shall be five dollars per day.

One bill clerk, whose compensation shall be five dollars per day.

One stenographer, whose compensation shall be five dollars per day.

One sergeant-at-arms, whose compensation shall be four dollars per day.

One doorkeeper, whose compensation shall be three dollars per day, and who shall be an assistant to the sergeant-at-arms.

One messenger, whose compensation shall be three dollars per day.

One postmaster, whose compensation shall be four dollars per day.

One chaplain, whose compensation shall be two dollars per day.

Two pages, whose compensation shall be two dollars per day each.

One janitor, whose compensation shall be three dollars per day.

One watchman, whose compensation shall be three dollars per day.

One clerk of the judiciary 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.

The journal of the senate shall be completed and indexed by the

secretary of the senate within ten days after adjournment thereof, and for such completion and indexing he shall be allowed the sum of fifty dollars.

In addition to the above there shall be appointed by the president, when deemed necessary by the senate, such assistant enrolling and engrossing clerks as may be actually necessary, who shall each receive a compensation of four dollars per day, which clerks shall be elected by a roll call vote of the senate; provided that during the first twenty-five days the number of such clerks shall not exceed six; during the second twenty-five days the total number shall not exceed ten, and during the last ten days the total number shall not exceed fifteen.

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.

One assistant clerk, whose compensation shall be five dollars per day.

One chief enrolling and engrossing clerk, whose compensation shall be five dollars per day.

One bill clerk, whose compensation shall be five dollars per day.

One stenographer, whose compensation shall be five dollars per day.

One sergeant-at-arms, whose compensation shall be five dollars per day.

One doorkeeper, whose compensation shall be three dollars per day, and who shall be an assistant to the sergeant-at-arms.

One messenger, whose compensation shall be three dollars per day.

One postmaster, whose compensation shall be four dollars per day.

One chaplain, whose compensation shall be three dollars per day.

Four pages, whose compensation shall be two dollars per day each.

The janitors, whose compensation shall be three dollars per day.

One watchman, whose compensation shall be four dollars per day.

One clerk of the judiciary committee, whose compensation shall be five dollars per day.

One journal clerk, whose compensation shall be five dollars per day, and who shall be under the supervision of the chief clerk of the house.

The journal of the house shall be completed and indexed by the chief clerk of the house within ten days after adjournment thereof, and for such completion and indexing he shall be allowed the sum of fifty dollars. In addition to the above there shall be appointed by the speaker, when deemed necessary by the house, such assistant enrolling and engrossing clerks as are actually necessary, who shall receive four dollars per day, which clerks shall be elected by a roll call vote of the house.

§ 2. AMENDMENT.] That section 29 of the Revised Codes of 1895 be amended so as to read as follows:

§ 29. The officers of each house shall be elected by a roll call vote

of the members thereof, at such times after the meeting of such house as the members thereof shall deem proper, and they shall be required to take and subscribe the oath prescribed in section 211 of the constitution. Neither house shall transact any business other than the election or appointment of officers, until such officers are elected or appointed pro tem.

§ 3. REPEAL.] That section 30 of the Revised Codes of 1895, relating to assistant legislative clerks and employes and the manner of their appointment be and the same is hereby repealed.

Approved March 8, 1899.

LICENSE OF ATTORNEYS.

CHAPTER 105.

[S. B. 86.]

REVOCATION OF LICENSE.

AN ACT to Amend Section 432 of the Revised Codes of North Dakota, Relating to the Revocation of License of Attorneys.

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

§ 1. AMENDMENT.] That section 432 of the Revised Codes of North Dakota be and the same is hereby amended and re-enacted to read as follows:

§ 432. FORFEITURE OF, AND WHAT COURTS MAY REVOKE OR SUSPEND LICENSE. The revocation of an attorney's license is, and shall constitute, a forfeiture of his office as an attorney, and the Supreme Court or any District Court may revoke or suspend the license of an attorney and counselor at law to practice in the courts of this state, but not until a copy of the charges against him shall have been delivered to him by the clerk of the court in which the proceedings shall be had, and an opportunity shall have been given him to be heard in his defense.

§ 2. EMERGENCY.] Whereas, an emergency exists in that there is an obscurity in the existing law which may result in divers interpretations if not speedily removed; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved February 15, 1899.

LINSEED OIL.

CHAPTER 106.

[H. B. 140.]

MANUFACTURE OF LINSEED OIL.

AN ACT Entitled "An Act to Prevent the Adulteration of, and Deception in the Manufacture and Sale of, Flaxseed or Linseed Oil.

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

§ 1. BOILED LINSEED OIL.] That no person, firm or corporation or agent or employe of any person, firm or corporation shall manufacture for sale or offer or expose for sale in this state any flaxseed or linseed oil unless the same answers a chemical test for purity recognized in the United States Pharmacopoeia or any flaxseed or linseed oil as "boiled linseed oil" unless the same shall have been put in its manufacture to a temperature of two hundred and twenty-five (225) degrees Farenheit.

§ 2. PAINTED, STAMPED OR STENCILED.] That no person, firm or corporation or agent or employe of any person, firm or corporation shall sell, expose or offer for sale any flaxseed or linseed oil unless it is done under its true name and each tank car, tank, barrel, keg or any vessel of such oil has distinctly and durably painted, stamped, stenciled or labeled thereon the true name of such oil in ordinary bold faced capital letters the words "pure linseed oil raw" or "pure linseed oil boiled" and the name and address of the manufacturer thereof and sold only under the brand of such manufacturer.

§ 3. MISDEMEANOR, PENALTY.] That any person, firm or corporation or agent or employe of any person, firm or corporation who shall sell without stamp as required by this act or who shall falsely stamp or label such tank cars, tanks, barrels, kegs or other vessels as containing flaxseed or linseed oil or knowingly permit such stamping or labeling or whoever shall violate any provision of this act shall be deemed guilty of a misdemeanor and upon conviction shall be punished with a fine of not less than twenty-five (25) dollars nor more than fifty (50) dollars and in default of the payment of such fine shall be committed to the county jail until the same is paid.

§ 4. COMMISSIONER OF AGRICULTURE MUST ENFORCE LAW.] It shall be the duty of the state commissioner of agriculture and labor

and the state's attorneys of the different counties of this state to enforce the provisions of this act; and for that purpose the said commissioner is hereby authorized and empowered to appoint such assistants, experts and chemists as he shall deem necessary or expedient from the State University or the State Agricultural College, and the said commissioner and said assistants, experts and chemists so appointed shall have access, ingress and egress to and from all places of business and buildings where flaxseed or linseed oil so called whether pure or adulterated, is believed by them to be kept or stored; and they shall also have power and authority to open any tank car, tank, barrel, keg or other vessel of such oil and inspect the contents thereof and take samples thereof therefrom sufficient in quantity only for analysis; and all clerks, bookkeepers, express agents, railroad agents or officials, employes, common carriers and all other persons shall render them all the assistance in their power when so requested in tracing, finding or discovering the presence of any such adulterated oil.

§ 5. EXPERTS AND CHEMISTS.] In all prosecutions under this act the costs thereof shall be paid in the manner now provided by law and the said assistants, experts and chemists appointed by the commissioner of agriculture and labor, shall be entitled when testifying on such prosecutions to the same witness fees now provided by law for expert witnesses.

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

Approved March 9, 1899.

LOST OR DESTROYED PAPERS.

CHAPTER 107.

[H. B. 181.]

SUBSTITUTION OF LOST PAPERS.

AN ACT to Enable the Substitution of Lost Paper or Papers Destroyed by Fire in the County Courts of this State and Providing the Manner of Said Substitution.

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

§ 1. LOST OR DESTROYED PAPERS.] If any process, citation, original petition or any other paper is lost or destroyed by fire or otherwise or withheld by any person the court may authorize a copy thereof to be filed and used instead of the original; and when it shall appear to the satisfaction of the judge of said court that

any order of the court has been heretofore made in any proceeding, the records of said proceeding and said order having been destroyed by fire or otherwise, the court shall again make and file such order therein, and all proceedings up to and including said order shall be deemed to have been taken and made as provided by law, and said final order shall have the same effect as if the entire record of said proceedings were still in existence and on file in said action or proceeding in said court.

§ 2. EMERGENCY.] Whereas, there is now no adequate remedy for the substitution for lost papers and papers destroyed by fire in county courts, an emergency exists; therefore, this act shall take effect from and after its passage and approval.

Approved March 7, 1899.

MARKS OR BRANDS.

CHAPTER 108.

[S. B. 122.]

REGISTERING MARKS AND BRANDS.

AN ACT to Amend Section 1538 of the Revised Codes of the State of North Dakota and to Repeal Section 1539 of said Codes; also to Relieve the Register of Deeds of any Duty in Regard to Registering Marks and Brands.

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

§ 1. AMENDMENT.] Section 1538 of the Revised Codes of the State of North Dakota, relating to marks and brands, is hereby amended to read as follows:

§ 1538. SECRETARY MUST RECORD BRANDS.] The secretary of state shall keep a record of all marks, brands and trade marks showing the names and residences of the person owning the same, together with a description and facsimile of such mark, brand or trade mark and in case of live stock the range occupied by such stock, as near as may be, which record shall be open to the inspection of any person interested and he shall deliver to the owner of such mark, brand or trade mark a certificate thereof, which certificate shall be deemed evidence of ownership, for which he shall charge and collect a fee of two dollars.

§ 2. REPEAL.] Section 1539 of the Revised Codes of 1895 is hereby repealed.

§ 3. AFTER ACT SHALL TAKE EFFECT.] After this act shall take

effect, the registers of deeds of the several counties shall not be required to make any record of or perform any duty in regard to marks and brands.

Approved March 8, 1899.

MECHANICS' LIENS.

CHAPTER 109.

[H. B. 159.]

RELATING TO MECHANICS' LIENS.

AN ACT to Amend Section 4788 of Chapter 77 of the Revised Codes of 1895, Relating to Mechanics' Liens.

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

§ 1. AMENDMENT.] That section 4788 of the Revised Codes of 1895 be amended to read as follows:

§ 4788. WHO MAY AND FOR WHAT.] Any person who shall perform any labor upon or furnish any materials, machinery or fixtures for the construction or repair of any work of internal improvement or for the erecting, alteration or repair of any building or other structures upon land, or in making any other improvement thereon, including fences, sidewalks, paving, wells, trees, grades, drains or excavations under a contract with the owner of such land, his agent, trustee, contractor or subcontractor, or with the consent of such owner, shall upon complying with the provisions of this chapter, have for his labor done, or materials, machinery or fixtures furnished, a lien upon such building, erection or improvement and upon the land belonging to such owner on which the same is situated, or to improve, which the work was done, or the things furnished, to secure the payment for such labor, material, machinery or fixtures; provided, that no person who furnishes any materials, machinery or fixtures as aforesaid, for a contractor or a subcontractor shall be entitled to file such lien unless he notify the owner of the land by registered letter previous to the completion of said contract that he has furnished such materials, machinery or fixtures.

The owner shall be presumed to have consented to the doing of any such labor or the making of any such improvement, if at the time he had knowledge thereof, and did not give notice of his objection thereto to the person entitled to the lien. The provisions of this section and chapter shall not be construed to apply to claims or contracts for furnishing lightning rods or any of their attachments.

Approved March 7, 1899.

MORTGAGING REAL ESTATE.

CHAPTER 110.

[H. B. 66.]

REAL ESTATE OF DECEASED PERSONS.

AN ACT to Provide for Mortgaging the Real Estate of a Deceased Person, of a Minor, or of an Incompetent Person.

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

§ 1. NOTICE SHALL BE GIVEN.] When it is shown to the satisfaction of the court at a hearing upon an application for the sale of real estate or upon a petition praying that the same may be mortgaged as provided in the next section after all the parties interested have been duly cited to appear, not less than ten nor more than thirty days from the date of filing such petition, which notice shall be given to all parties in interest in such manner as the court shall direct, that it will be for the benefit of the estate, the county court may direct an executor, administrator or guardian to mortgage any real estate of a decedent or of a minor or incompetent person for the purpose of paying an existing lien or mortgage on the property or for any other purpose for which a sale may be ordered or it may authorize him to make a renewal of an existing mortgage, but the homestead shall not be mortgaged without the consent of the person entitled thereto.

§ 2. PETITION MUST SPECIFY.] A petition for the purpose specified in the preceding section must specify the amount of money necessary to be raised and the purpose for which the same is required with such further particulars as are required in a petition for the sale of real property. The decree must fix the amount for which the mortgage may be given and the rate of interest that may be paid thereon, and may order the whole or any part of the money so secured to be paid from time to time out of the income of the mortgaged property. The mortgage or other contract executed by the executor, administrator or guardian in pursuance thereof may be approved upon his report in the same manner as a sale.

§ 3. EMERGENCY.] Whereas, an emergency exists in that there is now no law of the State of North Dakota providing for the mortgaging of the real estate of decedents, or of minors or incompetent persons; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved February 24, 1899.

NATIONAL GUARD.

CHAPTER 111.

[S. B. 145.]

ANNUAL ENCAMPMENT.

AN ACT to Amend Section 1391, Chapter 19, of the Revised Codes of the State of North Dakota, Relating to the Annual Encampment of the National Guard of the State of North Dakota.

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

§ 1. AMENDMENT.] That section 1391 of the Revised Codes of North Dakota is hereby amended to read as follows:

§ 1391. ANNUAL ENCAMPMENT.] There shall be an annual encampment, inspection and muster of all organizations of the National Guard for at least six consecutive days at the state military encampment grounds, Rock Island, Ramsey County, North Dakota. No person shall be mustered at such times or allowed to appear as a part of the National Guard, unless he is duly commissioned or enlisted in the same, nor any member who does not appear uniformed, armed and equipped as required by the provisions of this chapter. Any officer who shall knowingly or wilfully place or cause to be placed on such muster roll the name of any person not regularly or lawfully commissioned or enlisted or the name of any man who is dead, or who has been discharged, transferred or dropped, or has lost his membership for any cause whatsoever, or one who has been convicted of a felony or has refused to do military duty for the six months immediately preceding the annual inspection, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in a sum not less than fifty nor more than one hundred dollars, or may be cashiered.

Approved March 8, 1899.

CHAPTER 112.

[H. B. 183.]

AN ACT to Amend Section 1419 of Chapter 19 of the Revised Codes of 1895, Entitled, Militia.

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

§ 1. AMENDMENT.] Section 1419 of chapter 19 of the Revised Codes of 1895 be and the same is hereby amended to read as follows:

§ 1419. ARMORY RENT, EXPENSES OF MOUNTED DRILL AND COMPENSATION OF CHIEF MUSICIAN, HOW PAID.] The commanding officer of each company, troop or battery, and the treasurer of each regimental band shall provide suitable rooms at a convenient place in the city where each organization is located or stationed with the necessary furniture, fuel, lights, drawers, lockers, closets and gun racks for an armory, assembly and drill room for such organization, and such rooms shall be under the exclusive control of the commanding officer. There shall be an annual appropriation of three hundred dollars from the militia fund for the rent and furnishing of such armory or band quarters for each organization of the National Guard and three hundred dollars additional to be paid to the chief musician of each regimental band as compensation for his services in training said band at its home station and the sum of one hundred dollars to be paid to the commanding officer of each troop or battery to provide horses for mounted drills; provided that not less than five mounted drills shall have been held by said troop or battery during said year.

§ 2. EMERGENCY.] Whereas, an emergency exists in that there is at present no provision for compensation of chief musician of regimental bands or any provision for procuring horses for mounted drills; therefore, this act shall take effect and be in force on and after its passage and approval.

Approved March 6, 1899.

NEGOTIABLE INSTRUMENTS.

CHAPTER 113.

[H. B. 21.]

RELATING TO NEGOTIABLE INSTRUMENTS.

AN ACT Relating to Negotiable Instruments and Providing for Their Interpretation, Utterance, Collection and Construction.

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

TITLE I.

NEGOTIABLE INSTRUMENTS IN GENERAL.

ARTICLE I.

FORM AND INTERPRETATION.

§ 1. INSTRUMENTS MUST CONFORM TO SPECIFIC REQUIREMENTS.] An instrument to be negotiable must conform to the following requirements:

1. It must be in writing and signed by the maker or drawer;
2. Must contain an unconditional promise or order to pay a sum certain in money;
3. Must be payable on demand, or at a fixed or determinable future time;
4. Must be payable to order or to bearer; and,
5. Where the instrument is addressed to a drawee, he must be named or otherwise indicated therein with reasonable certainty.

§ 2. SUM PAYABLE WITHIN THE MEANING OF THIS ACT.] The sum payable is a sum certain within the meaning of this act, although it is to be paid:

1. With interest; or
2. By stated installments; or
3. By stated installments, with a provision that upon default in payment of any installment or of interest, the whole shall become due; or
4. With exchange, whether at a fixed rate or at the current rate; or
5. With costs of collection or an attorney's fee, in case payment shall not be made at maturity.

§ 3. UNQUALIFIED ORDER OR PROMISE TO PAY.] An unqualified order or promise to pay is unconditional within the meaning of this act, though coupled with:

1. An indication of a particular fund out of which reimbursement is to be made, or a particular account to be debited with the amount; or

2. A statement of the transaction which gives rise to the instrument.

But an order or promise to pay out of a particular fund is not unconditional.

§ 4. PAYABLE AT DETERMINABLE FUTURE TIME.] An instrument is payable at a determinable future time, within the meaning of this act, which is expressed to be payable:

1. At a fixed period after date or sight; or

2. On or before a fixed or determinable future time specified therein; or

3. On or at a fixed period after the occurrence of a specified event, which is certain to happen, though the time of happening be uncertain.

An instrument payable upon a contingency is not negotiable, and the happening of the event does not cure the defect.

§ 5. WHEN NOT NEGOTIABLE.] An instrument which contains an order or promise to do any act in addition to the payment of money is not negotiable. But the negotiable character of an instrument otherwise negotiable is not affected by a provision which:

1. Authorizes the sale of collateral securities in case the instrument be not paid at maturity; or

2. Authorizes a confession of judgment if the instrument be not paid at maturity; or

3. Waives the benefit of any law intended for the advantage or protection of the obligor; or

4. Gives the holder an election to require something to be done in lieu of payment of money.

But nothing in this section shall validate any provision or stipulation otherwise illegal.

§ 6. VALIDITY AND NEGOTIABLE CHARACTER.] The validity and negotiable character of an instrument are not affected by the fact that:

1. It is not dated; or

2. Does not specify the value given, or that any value has been given therefor; or

3. Does not specify the place where it is drawn or the place where it is payable; or

4. Bears a seal; or

5. Designates a particular kind of current money in which payment is to be made.

But nothing in this section shall alter or repeal any statute requiring in certain cases the nature of the consideration to be stated in the instrument.

§ 7. PAYABLE ON DEMAND.] An instrument is payable on demand:

1. Where it is expressed to be payable on demand, or at sight, or on presentation; or

2. In which no time for payment is expressed.

Where an instrument is issued, accepted or indorsed when overdue, it is, as regards the person so issuing, accepting or indorsing it, payable on demand.

§ 8. PAYABLE TO ORDER.] The instrument is payable to order where it is drawn payable to the order of a specified person or to him or his order. It may be drawn payable to the order of:

1. A payee who is not maker, drawer or drawee; or

2. The drawer or maker; or

3. The drawee; or

4. Two or more payees jointly; or

5. One or some of several payees; or

6. The holder of an office for the time being.

Where the instrument is payable to order the payee must be named or otherwise indicated therein with reasonable certainty.

§ 9. PAYABLE TO BEARER.] The instrument is payable to bearer

1. When it is expressed to be so payable; or

2. When it is payable to a person named therein or bearer; or

3. When it is payable to the order of a fictitious or non-existing person, and such fact was known to the person making it so payable; or

4. When the name of the payee does not purport to be the name of any person; or

5. When the only or last indorsement is an indorsement in blank.

§ 10. INSTRUMENT NEED NOT FOLLOW LANGUAGE OF ACT.] The instrument need not follow the language of this act, but any terms are sufficient which clearly indicate an intention to conform to the requirements hereof.

§ 11. WHERE INSTRUMENT IS DATED.] Where the instrument or an acceptance or any indorsement thereon is dated, such date is deemed prima facie to be true date of the making, drawing, acceptance or indorsement as the case may be.

§ 12. WHEN INSTRUMENT IS NOT INVALID.] The instrument is not invalid for the reason only that it is ante-dated or post-dated, provided this is not done for an illegal or fraudulent purpose. The person to whom an instrument so dated is delivered acquires the title thereto as of the date of delivery.

§ 13. UNDATED INSTRUMENTS.] Where an instrument expressed to be payable at a fixed period after date is issued undated, or where the acceptance of an instrument payable at a fixed period after sight is undated, any holder may insert therein the true date of issue or acceptance, and the instrument shall be payable accordingly. The insertion of a wrong date does not avoid the instrument in the hands of a subsequent holder in due course; but as to him, the date so inserted is to be regarded as the true date.

§ 14. INCOMPLETE BLANK MAY BE FILLED UP.] Where the instrument is wanting in any material particular, the person in pos-

session thereof has a prima facie authority to complete it by filling up the blanks therein. And a signature on a blank paper delivered by the person making the signature in order that the paper may be converted into a negotiable instrument operates as prima facie authority to fill it up as such for any amount. In order, however, that any such instrument when completed, may be enforced against any person who became a party thereto prior to its completion, it must be filled up strictly in accordance with the authority given and within a reasonable time. But if any such instrument, after completion, is negotiated to a holder in due course, it is valid and effectual for all purposes in his hands, and he may enforce it as if it had been filled up strictly in accordance with the authority given and within a reasonable time.

§ 15. WHEN INCOMPLETE INSTRUMENTS NOT VALID.] Where an incomplete instrument has not been delivered it will not, if completed and negotiated, without authority, be a valid contract in the hands of any holder, as against any person whose signature was placed thereon before delivery.

§ 16. INCOMPLETE AND REVOKABLE UNTIL DELIVERY.] Every contract on a negotiable instrument is incomplete and revokable until delivery of the instrument for the purpose of giving effect thereto. As between immediate parties, and as regards a remote party other than a holder in due course, the delivery, in order to be effectual, must be made either by or under the authority of the party making, drawing, accepting or indorsing, as the case may be; and in such case the delivery may be shown to have been conditional, or for a special purpose only, and not for the purpose of transferring the property in the instrument. But where the instrument is in the hands of a holder in due course, a valid delivery thereof by all parties prior to him so as to make them liable to him is conclusively presumed. And where the instrument is no longer in the possession of a party whose signature appears thereon, a valid and intentional delivery by him is presumed until the contrary is proved.

§ 17. AMBIGUOUS LANGUAGE.] Where the language of the instrument is ambiguous, or there are omissions therein, the following rules of construction apply:

1. Where the sum payable is expressed in words and also in figures and there is a discrepancy between the two, the sum denoted by the words is the sum payable; but if the words are ambiguous or uncertain, reference may be had to the figures to fix the amount.

2. Where the instrument provides for the payment of interest, without specifying the date from which interest is to run, the interest runs from the date of the instrument, and if the instrument is undated, from the issue thereof;

3. Where the instrument is not dated, it will be considered to be dated as of the time it was issued;

4. Where there is a conflict between the written and printed provisions of the instrument, the written provisions prevail;

5. Where the instrument is so ambiguous that there is doubt whether it is a bill or note, the holder may treat it as either at his election;

6. Where a signature is so placed upon the instrument that it is not clear in what capacity the person making the same intended to sign, he is to be deemed an indorser;

7. Where an instrument containing the words "I promise to pay" is signed by two or more persons, they are deemed to be jointly and severally liable thereon.

§ 18. LIABILITY OF SIGNER.] No person is liable on the instrument whose signature does not appear thereon, except as herein otherwise expressly provided. But one who signs in a trade or assumed name will be liable to the same extent as if he had signed in his own name.

§ 19. SIGNATURE MAY BE MADE BY AGENT.] The signature of any party may be made by a duly authorized agent. No particular form of appointment is necessary for this purpose; and the authority of the agent may be established as in other cases of agency.

§ 20. ADDITIONS TO SIGNATURES.] Where the instrument contains or a person adds to his signature words indicating that he signs for or on behalf of a principal, or in a representative capacity, he is not liable on the instrument if he was duly authorized; but the mere addition of words describing him as an agent, or as filling a representative character, without disclosing his principal, does not exempt him from personal liability.

§ 21. "PROCURATION."] A signature by "procurator" operates as notice that the agent has but a limited authority to sign, and the principal is bound only in case the agent in so signing acted within the actual limits of his authority.

§ 22. INDORSEMENT BY CORPORATION.] The indorsement or assignment of the instrument by a corporation or by an infant passes the property therein, notwithstanding that from want of capacity the corporation or infant may incur no liability thereon.

§ 23. FORGED SIGNATURE.] Where a signature is forged or made without the authority of the person whose signature it purports to be, it is wholly inoperative, and no right to retain the instrument, or to give a discharge therefor, or to enforce payment thereof against any party thereto, can be acquired through or under such signature, unless the party, against whom it is sought to enforce such right, is precluded from setting up the forgery or want of authority.

ARTICLE II.

CONSIDERATION.

§ 24. CONSIDERATION.] Every negotiable instrument is deemed prima facie to have been issued for a valuable consideration; and every person whose signature appears thereon to have become a party thereto for value.

§ 25. VALUE IS CONSIDERATION.] Value is any consideration sufficient to support a simple contract. An antecedent or pre-existing debt constitutes value; and is deemed such whether the instrument is payable on demand or a future time.

§ 26. VALUE FOR CONSIDERATION.] Where value has at any time been given for the instrument, the holder is deemed a holder for value in respect to all parties who became such prior to that time.

§ 27. LIEN ON INSTRUMENTS.] Where the holder has a lien on the instrument, arising either from contract or by implication of law, he is deemed a holder for value to the extent of his lien.

§ 28. ABSENCE OF CONSIDERATION.] Absence or failure of consideration is matter of defense as against any person not a holder in due course; and partial failure of consideration is a defense pro tanto whether the failure is an ascertained and liquidated amount or otherwise.

§ 29. ACCOMMODATION PARTY.] An accommodation party is one who has signed the instrument as maker, drawer, acceptor or indorser, without receiving value therefor, and for the purpose of lending his name to some other person. Such a person is liable on the instrument to a holder for value, notwithstanding such holder at the time of taking the instrument knew him to be only an accommodation party.

ARTICLE III.

NEGOTIATION.

§ 30. NEGOTIATION. An instrument is negotiated when it is transferred from one person to another in such manner as to constitute the transferee the holder thereof. If payable to bearer it is negotiated by delivery; if payable to order it is negotiated by the indorsement of the holder completed by delivery.

§ 31. INDORSEMENTS.] The indorsement must be written on the instrument itself or upon a paper attached thereto. The signature of the indorser, without additional words is a sufficient indorsement.

§ 32. INDORSEMENT OF ENTIRE INSTRUMENT.] The indorsement must be an indorsement of the entire instrument. An indorsement, which purports to transfer to the indorsee a part only of the amount payable, or which purports to transfer the instrument to two or more indorsees severally, does not operate as a negotiation of the instrument. But where the instrument has been paid in part, it may be indorsed as to the residue.

§ 33. SPECIAL OR BLANK INDORSEMENTS.] An indorsement may be either special or in blank; and it may also be either restrictive or qualified, or conditional.

§ 34. INDORSEMENT IN BLANK.] A special indorsement specifies the person to whom, or to whose order, the instrument is to be payable; and the indorsement of such indorsee is necessary to the further negotiation of the instrument. An indorsement in blank

specifies no indorsee, and an instrument so indorsed is payable to bearer, and may be negotiated by delivery.

§ 35. MAY CONVERT BLANK INDORSEMENT.] The holder may convert a blank indorsement into a special indorsement by writing over the signature of the indorser in blank any contract consistent with the character of the indorsement.

§ 36. RESTRICTIVE INDORSEMENTS.] An indorsement is restrictive which either:

1. Prohibits the further negotiation of the instrument; or
2. Constitutes the indorsee the agent of the indorser; or
3. Vests the title in the indorsee in trust for or to the use of some other person. But the mere absence of words implying power to negotiate does not make an indorsement restrictive.

§ 37. RIGHTS OF INDORSEE.] A restrictive indorsement confers upon the indorsee the right:

1. To receive payment of the instrument;
2. To bring any action thereon that the indorser could bring;
3. To transfer his rights as such indorsee, where the form of the indorsement authorizes him to do so.

But all subsequent indorsees acquire only the title of the first indorsee under the restrictive indorsement.

§ 38. QUALIFIED INDORSEMENT.] A qualified indorsement constitutes the indorser a mere assignor of the title to the instrument. It may be made by adding to the indorser's signature the words "without recourse" or any words of similar import. Such an indorsement does not impair the negotiable character of the instrument.

§ 39. CONDITIONAL INDORSEMENT.] Where an indorsement is conditional, a party required to pay the instrument may disregard the condition, and make payment to the indorsee or his transferee, whether the condition has been fulfilled or not. But any person to whom an instrument so indorsed is negotiated, will hold the same, or the proceeds thereof, subject to the rights of the person indorsing conditionally.

§ 40. PAYABLE TO BEARER.] Where an instrument, payable to bearer, is indorsed specially, it may nevertheless be further negotiated by delivery; but the person indorsing specially is liable as indorser to only such holders as make title through his indorsement.

§ 41. PAYABLE TO ORDER.] Where an instrument is payable to the order of two or more payees or indorsees who are not partners, all must indorse, unless the one indorsing has authority for the others.

§ 42. INDORSED AS CASHIER.] Where an instrument is drawn or indorsed to a person as "cashier" or other fiscal officers of a bank or corporation, it is deemed prima facie to be payable to the bank or corporation of which he is such officer; and may be negotiated by either the indorsement of the bank or corporation, or the indorsement of the officer.

§ 43. MISSPELLED NAMES.] Where the name of a payee or indorsee is wrongly designated or misspelled, he may indorse the instrument as therein described, adding, if he thinks fit, his proper signature.

§ 44. NEGATIVE PERSONAL LIABILITY.] Where any person is under obligation to indorse in a representative capacity, he may indorse in such terms as to negative personal liability.

§ 45. INDORSEMENTS AFTER DATE OF MATURITY.] Except where an indorsement bears date after the maturity of the instrument, every negotiation is deemed prima facie to have been effected before the instrument was overdue.

§ 46. PRESUMPTION OF INDORSEMENT.] Except where the contrary appears every indorsement is presumed prima facie to have been made at the place where the instrument is dated.

§ 47. RESTRICTIVE INDORSEMENT.] An instrument negotiable in its origin continues to be negotiable until it has been restrictively indorsed or discharged by payment or otherwise.

§ 48. PRIVILEGE OF HOLDER.] The holder may at any time strike out any indorsement which is not necessary to his title. The indorser whose indorsement is struck out, and all indorsers subsequent to him, are thereby relieved from liability on the instrument.

§ 49. TRANSFERS WITHOUT INDORSEMENT.] Where the holder of an instrument payable to his order transfers it for value without indorsing it, the transfer vests in the transferee such title as the transferer had therein, and the transferee acquires, in addition, the right to have the indorsement of the transferer. But for the purpose of determining whether the transferee is a holder in due course, the negotiation takes effect as of the time when the indorsement is actually made.

§ 50. MAY REISSUE INSTRUMENTS.] Where an instrument is negotiated back to a prior party, such party may, subject to the provisions of this act, re-issue and further negotiate the same. But he is not entitled to enforce payment thereof against any intervening party to whom he was personally liable.

ARTICLE IV.

RIGHTS OF THE HOLDER.

§ 51. HOLDER OF NEGOTIABLE NOTE MAY SUE.] The holder of a negotiable instrument may sue thereon in his own name; and payment to him in due course discharges the instrument.

§ 52. HOLDER OF INSTRUMENT, CONDITIONS.] A holder in due course is a holder who has taken the instrument under the following conditions:

1. That it is complete and regular upon its face;
2. That he became the holder of it before it was overdue, and

without notice that it had been previously dishonored, if such was the fact;

3. That he took it in good faith and for value;

4. That at the time it was negotiated to him he had no notice of any infirmity in the instrument or defect in the title of the person negotiating it.

§ 53. WHERE INSTRUMENT PAYABLE ON DEMAND.] Where an instrument payable on demand is negotiated an unreasonable length of time after its issue, the holder is not deemed a holder in due course.

§ 54. WHERE TRANSFEREE RECEIVES NOTICE.] Where the transferee receives notice of any infirmity in the instrument or defect in the title of the person negotiating the same before he has paid the full amount agreed to be paid therefor, he will be deemed a holder in due course only to the extent of the amount theretofore paid by him.

§ 55. DEFECTIVE TITLE, MEANING OF THIS ACT.] The title of a person who negotiates an instrument is defective within the meaning of this act when he obtained the instrument, or any signature thereto, by fraud, duress, or force and fear, or other unlawful means, or for an illegal consideration, or when he negotiates it in breach of faith, or under such circumstances as amount to a fraud.

§ 56. NOTICE OF INFIRMITY.] To constitute notice of an infirmity in the instrument or defect in the title of the person negotiating the same, the person to whom it is negotiated must have had actual knowledge of the infirmity or defect or knowledge of such facts that his action in taking the instrument amounted to bad faith.

§ 57. INSTRUMENTS FREE FROM DEFECTS.] A holder in due course holds the instrument free from any defect of title of prior parties, and free from defenses available to prior parties among themselves, and may enforce payment of the instrument for the full amount thereof against all parties liable thereon.

§ 58. NEGOTIABLE INSTRUMENTS SUBJECT TO SAME DEFENSES.] In the hands of any holder other than a holder in due course, a negotiable instrument is subject to the same defenses as if it were non-negotiable. But a holder who derives his title through a holder in due course, and who is not himself a party to any fraud or illegality affecting the instrument, has all the rights of such former holder in respect of all parties prior to the latter.

§ 59. PRIMA FACIE HOLDER.] Every holder is deemed prima facie to be a holder in due course; but when it is shown that the title of any person who has negotiated the instrument was defective, the burden is on the holder to prove that he or some person under whom he claims acquired the title as a holder in due course. But the last mentioned rule does not apply in favor of a party who became bound on the instrument prior to the acquisition of such defective title.

ARTICLE V.

LIABILITIES OF PARTIES.

§ 60. MAKER OF NEGOTIABLE INSTRUMENTS.] The maker of a negotiable instrument by making it engages that he will pay it according to its tenor; and admits the existence of the payee and his then capacity to indorse.

§ 61. DRAWER MAY LIMIT HIS LIABILITY.] The drawer by drawing the instrument admits the existence of the payee and his then capacity to indorse; and engages that on due presentment the instrument will be accepted or paid, or both, according to its tenor, and that if it be dishonored, and the necessary proceedings on dishonor be duly taken, he will pay the amount thereof to the holder, or to any subsequent indorser who may be compelled to pay it. But the drawer may insert in the instrument an express stipulation negating or limiting his own liability to the holder.

§ 62. ADMISSIONS OF ACCEPTOR.] The acceptor by accepting the instrument engages that he will pay it according to the tenor of his acceptance; and admits:

1. The existence of the drawer, the genuineness of his signature, and his capacity and authority to draw the instrument; and
2. The existence of the payee and his then capacity to indorse.

§ 63. EFFECT OF SIGNATURE UPON AN INSTRUMENT.] A person placing his signature upon an instrument otherwise than as maker, drawer or acceptor is deemed to be an indorser, unless he clearly indicates by appropriate words his intention to be bound in some other capacity.

§ 64. LIABILITY OF INDORSER.] Where a person, not otherwise a party to an instrument, places thereon his signature in blank before delivery, he is liable as indorser in accordance with the following rules:

1. If the instrument is payable to the order of a third person, he is liable to the payee and to all subsequent parties.
2. If the instrument is payable to the order of the maker or drawer or is payable to bearer, he is liable to all parties subsequent to the maker or drawer.
3. If he signs for the accommodation of the payee, he is liable to all parties subsequent to the payee.

§ 65. QUALIFIED INDORSEMENT, WARRANTS.] Every person negotiating an instrument by delivery or by a qualified indorsement, warrants:

1. That the instrument is genuine and in all respects what it purports to be;
2. That he has a good title to it;
3. That all prior parties had capacity to contract;
4. That he has no knowledge of any fact which would impair the validity of the instrument or render it valueless.

But when the negotiation is by delivery only, the warranty extends in favor of no holder other than the immediate transferee.

The provisions of subdivision 3 of this section does not apply to persons negotiating public or corporate securities, other than bills and notes.

§ 66. INDORSERS WITHOUT QUALIFICATION.] Every indorser who indorses without qualification, warrants to all subsequent holders in due course:

1. The matters and things mentioned in subdivisions 1, 2 and 3 of the next preceding section and
2. That the instrument is at the time of his indorsement valid and subsisting.

And, in addition, he engages that on due presentment, it shall be accepted or paid, or both, as the case may be, according to its tenor, and that if it be dishonored and the necessary proceedings on dishonor be duly taken, he will pay the amount thereof to the holder, or to any subsequent indorser who may be compelled to pay it.

§ 67. ALL THE LIABILITIES INCURRED IN CERTAIN CASES.] Where a person places his indorsement on an instrument negotiable by delivery he incurs all the liabilities of an indorser.

§ 68. JOINT PAYEES.] As respects one another, indorses are liable prima facie in the order in which they indorse; but evidence is admissible to show that as between or among themselves they have agreed otherwise. Joint payees of joint indorseees who indorse are deemed to indorse jointly and severally.

§ 69. NEGOTIATION BY AGENT.] Where a broker or other agent negotiates an instrument without indorsement, he incurs all the liabilities prescribed by section 65 of this act, unless he discloses the name of his principal, and the fact that he is acting only as agent.

ARTICLE VI.

PRESENTMENT FOR PAYMENT.

§ 70. PRESENTMENT FOR PAYMENT.] Presentment for payment is not necessary in order to charge the person primarily liable on the instrument; but if the instrument is, by its terms, payable at a special place, and he is able and willing to pay it there at maturity, such ability and willingness are equivalent to a tender of payment upon his part. But except as herein otherwise provided, presentment for payment is necessary in order to charge the drawer and indorsers.

§ 71. WHERE PAYABLE ON DEMAND.] Where the instrument is not payable on demand, presentment must be made on the day it falls due. Where it is payable on demand, presentment must be made within a reasonable time after its issue, except that in the case of a bill of exchange, presentment for payment will be sufficient if made within a reasonable time after the last negotiation thereof.

§ 72. PRESENTMENT, HOW MADE.] Presentment for payment, to be sufficient, must be made:

1. By the holder, or by some person authorized to receive payment on his behalf;
2. At a reasonable hour on a business day;
3. At a proper place as herein defined.
4. To the person primarily liable on the instrument, or if he is absent or inaccessible, to any person found at the place where the presentment is made.

§ 73. PAYMENT AT PROPER PLACE.] Presentment for payment is made at the proper place:

1. Where a place of payment is specified in the instrument and it is there presented;
2. Where no place of payment is specified but the address of the person to make payment is given in the instrument and it is there presented;
3. Where no place of payment is specified and no address is given and the instrument is presented at the usual place of business or residence of the person to make payment;
4. In any other case if presented to the person to make payment wherever he can be found, or if presented at his last known place of business or residence.

§ 74. INSTRUMENT MUST BE EXHIBITED.] The instrument must be exhibited to the person from whom payment is demanded, and when it is paid must be delivered up to the party paying it.

§ 75. INSTRUMENT PAYABLE AT BANK.] Where the instrument is payable at a bank, presentment for payment must be made during banking hours, unless the person to make payment has no funds there to meet it at any time during the day, in which case presentment at any hour before the bank is closed on that day is sufficient.

§ 76. WHERE PERSON PRIMARILY LIABLE.] Where the person primarily liable on the instrument is dead, and no place of payment is specified, presentment for payment must be made to his personal representative if such there be, and if with the exercise of reasonable diligence, he can be found.

§ 77. LIABILITY AS PARTNERS.] Where the persons primarily liable on the instrument are liable as partners, and no place of payment is specified, presentment for payment may be made to any one of them, even though there has been a dissolution of the firm.

§ 78. LIABILITY OF PERSONS NOT PARTNERS.] Where there are several person, not partners, primarily liable on the instrument, and no place of payment is specified, presentment must be made to them all.

§ 79. WHEN PRESENTMENT FOR PAYMENT NOT REQUIRED.] Presentment for payment is not required in order to charge the drawer where he has no right to expect or require that the drawee or acceptor will pay the instrument.

§ 80. CHARGE OF INDORSER.] Presentment for payment is not required in order to charge an indorser where the instrument was made or accepted for his accommodation, and he has no reason to expect that the instrument will be paid if presented.

§ 88. DELAY IN PRESENTMENT, WHEN EXCUSED.] Delay in making presentment for payment is excused when the delay is caused by circumstances beyond the control of the holder, and not imputable to his default, misconduct or negligence. When the cause of delay ceases to operate, presentment must be made with reasonable diligence.

§ 82. PRESENTMENT, WHEN DISPENSED WITH.] Presentment for payment is dispensed with:

1. Where after the exercise of reasonable diligence presentment as required by this act cannot be made;
2. Where the drawee is a fictitious person;
3. By waiver of presentment express or implied.

§ 83. WHEN INSTRUMENT IS DISHONORED.] The instrument is dishonored by non-payment when:

1. It is duly presented for payment and payment is refused or cannot be obtained; or
2. Presentment is excused and the instrument is overdue and unpaid.

§ 84. DISHONORED BY NON-PAYMENT.] Subject to the provisions of this act, when the instrument is dishonored by non-payment, an immediate right of recourse to all parties secondarily liable thereon, accrues to the holder.

§ 85. NEGOTIABLE INSTRUMENT PAYABLE AT TIME FIXED.] Every negotiable instrument is payable at the time fixed therein without grace. When the day of maturity falls upon Sunday, or a holiday, the instrument is payable on the next succeeding business day. Instruments falling due on Saturday are to be presented for payment on the next succeeding business day, except that instruments payable on demand may, at the option of the holder, be presented for payment before twelve o'clock noon on Saturday when that entire day is not a holiday.

§ 86. PAYABLE AFTER DATE.] Where the instrument is payable at a fixed period after date, after sight or after the happening of a specified event, the time of payment is determined by excluding the day from which the time is to begin to run, and by including the date of payment.

§ 87. INSTRUMENT PAYABLE AT BANK.] Where the instrument is made payable at a bank it is equivalent to an order to the bank to pay the same for the account of the principal debtor thereon.

§ 88. PAYMENT AFTER MATURITY.] Payment is made in due course when it is made at or after the maturity of the instrument to the holder thereof in good faith and without notice that his title is defective.

ARTICLE VII.

NOTICE OF DISHONOR.

§ 89. NOTICE OF DISHONOR.] Except as herein otherwise provided, when a negotiable instrument has been dishonored by non-acceptance or non-payment, notice of dishonor must be given to the

drawer and to each indorser and any drawer or indorser to whom such notice is not given is discharged.

§ 90. NOTICE BY HOLDER.] The notice may be given by or on behalf of the holder, or by or on behalf of any party to the instrument who might be compelled to pay it to the holder, and who upon taking it up would have a right to reimbursement from the party to whom the notice is given.

§ 91. NOTICE BY AGENT.] Notice of dishonor may be given by an agent either in his own name or in the name of any party entitled to give notice, whether that party be his principal or not.

§ 92. NOTICE ON BEHALF OF HOLDER.] Where notice is given by or on behalf of the holder, it enures for the benefit of all subsequent holders and all prior parties who have a right of recourse against the party to whom it is given.

§ 93. IN BEHALF OF PARTY, IN CERTAIN CASES.] Where notice is given by or on behalf of a party entitled to give notice, it enures for the benefit of the holder and all parties subsequent to the party to whom notice is given.

§ 94. IN CASE OF DISHONORED INSTRUMENT.] Where the instrument has been dishonored in the hands of an agent, he may either himself give notice to the parties liable thereon, or he may give notice to his principal. If he give notice to his principal, he must do so within the same time as if he were the holder, and the principal upon the receipt of such notice has himself the same time for giving notice as if the agent had been an independent holder.

§ 95. MISDESCRIPTION DOES NOT VITIATE.] A written notice need not be signed and an insufficient written notice may be supplemented and validated by verbal communication. A misdescription of the instrument does not vitiate the notice unless the party to whom the notice is given is in fact misled thereby.

§ 96. WRITTEN OR ORAL NOTICE.] The notice may be in writing or merely oral and may be given in any terms which sufficiently identify the instrument, and indicate that it has been dishonored by non-acceptance or non-payment. It may in all cases be given by delivering it personally or through the mails.

§ 97. NOTICE OF DISHONOR, TO WHOM GIVEN.] Notice of dishonor may be given to the party himself or to his agent in that behalf.

§ 98. NOTICE TO PERSONAL REPRESENTATIVE.] When any party is dead, and his death is known to the party giving notice, the notice must be given to a personal representative, if there be one, and if with reasonable diligence, he can be found. If there be no personal representative, notice may be sent to the last residence or last place of business of the deceased.

§ 99. IN CASE OF PARTNERS.] Where the parties to be notified are partners notice to any one partner is notice to the firm even though there has been a dissolution.

§ 100. JOINT PARTIES.] Notice to joint parties who are not partners must be given to each of them, unless one of them has authority to receive such notice for the others.

§ 101. BANKRUPTCY OR INSOLVENCY.] Where a party has been adjudged a bankrupt or an insolvent, or has made an assignment for the benefit of the creditors, notice may be given either to the party himself or to his trustee or assignee.

§ 102. NOTICE AS SOON AS INSTRUMENT IS DISHONORED.] Notice may be given as soon as the instrument is dishonored; and unless delay is excused as hereinafter provided, must be given within the times fixed by this act.

§ 103. WHEN NOTICE MUST BE GIVEN.] Where the person giving and the person to receive notice reside in the same place, notice must be given within the following times:

1. If given at the place of business of the person to receive notice, it must be given before the close of business hours on the day following;

2. If given at his residence, it must be given before the usual hours of rest on the day following;

3. If sent by mail, it must be deposited in the postoffice in time to reach him in usual course on the day following.

§ 104. HOW NOTICE GIVEN.] Where the person giving and the person to receive notice reside in different places, the notice must be given within the following times:

1. If sent by mail, it must be deposited in the postoffice in time to go by mail the day following the day of dishonor, or if there be no mail at a convenient hour on that day, by the next mail thereafter.

2. If given otherwise than through the postoffice, then within the time that notice would have been received in due course of mail, if it had been deposited in the postoffice within the time specified in the last subdivision.

§ 105. HOW NOTICE OF DISHONOR GIVEN.] Where notice of dishonor is duly addressed and deposited in the postoffice, the sender is deemed to have given due notice, notwithstanding any miscarriage in the mails.

§ 106. NOTICE IN POSTOFFICE.] Notice is deemed to have been deposited in the postoffice when deposited in any branch postoffice or in any letter box under the control of the postoffice department.

§ 107. NOTICE TO ANTECEDENT PARTIES.] Where a party receives notice of dishonor, he has, after the receipt of such notice, the same time for giving notice to antecedent parties that the holder has after the dishonor.

§ 108. NOTICE MUST BE SENT TO PROPER ADDRESS.] Where a party has added an address to his signature, notice of dishonor must be sent to that address; but if he has not given such address, then the notice must be sent as follows:

1. Either to the postoffice nearest to his place of residence, or to the postoffice where he is accustomed to receive his letters; or

2. If he live in one place, and have his place of business in another, notice may be sent to either place; or

3. If he is sojourning in another place, notice may be sent to the place where he is so sojourning.

But where the notice is actually received by the party within the time specified in this act, it will be sufficient, though not sent in accordance with the requirements of this section.

§ 109. NOTICE OF DISHONOR MAY BE WAIVED.] Notice of dishonor may be waived, either before the time of giving notice has arrived, or after the omission to give due notice, and the waiver may be express or implied.

§ 110. WAIVER BINDING.] Where the waiver is embodied in the instrument itself, it is binding upon all parties; but where it is written above the signature of an indorser, it binds him only.

§ 111. DEFINITION OF "WAIVER."] A waiver of protest, whether in the case of a foreign bill of exchange or other negotiable instrument, is deemed to be a waiver not only of a formal protest, but also of presentment and notice of dishonor.

§ 112. NOTICE OF DISHONOR, WHEN DISPENSED WITH.] Notice of dishonor is dispensed with when after the exercise of reasonable diligence, it cannot be given to or does not reach the parties sought to be charged.

§ 113. DELAY IN GIVING NOTICE.] Delay in giving notice of dishonor is excused when the delay is caused by circumstances beyond the control of the holder and not imputable to his default, misconduct or negligence. When the cause of delay ceases to operate, notice must be given with reasonable diligence.

§ 114. WHEN NOTICE NOT REQUIRED.] Notice of dishonor is not required to be given to the drawer in either of the following cases:

1. Where the drawer and drawee are the same person;
2. Where the drawee is a fictitious person or a person not having capacity to contract;
3. Where the drawer is the person to whom the instrument is presented for payment;
4. Where the drawer has no right to expect or require that the drawee or acceptor will honor the instrument;
5. Where the drawer has countermanded payment.

§ 115. NOTICE NOT REQUIRED TO BE GIVEN AN INDORSER IN CERTAIN CASES.] Notice of dishonor is not required to be given to an indorser in either of the following cases:

1. Where the drawee is a fictitious person or a person not having capacity to contract, and the indorser was aware of the fact at the time he indorsed the instrument;
2. Where the indorser is the person to whom the instrument is presented for payment;
3. Where the instrument was made or accepted for his accommodation.

§ 116. NON-ACCEPTANCE.] Where due notice of dishonor by non-acceptance has been given, notice of a subsequent dishonor by non-payment is not necessary, unless in the meantime the instrument has been accepted.

§ 117. IN CASE OF OMISSION.] An omission to give notice of dishonor by non-acceptance does not prejudice the rights of a holder in due course subsequent to the omission.

§ 118. PROTESTED FOR NON-ACCEPTANCE.] Where any negotiable instrument has been dishonored it may be protested for non-acceptance or non-payment as the case may be; but protest is not required, except in the case of foreign bills of exchange.

ARTICLE VIII.

DISCHARGE OF NEGOTIABLE INSTRUMENTS.

§ 119. WHEN DISCHARGED.] A negotiable instrument is discharged:

1. By payment in due course by or on behalf of the principal debtor;
2. By payment in due course by the party accommodated, where the instrument is made or accepted for accommodation;
3. By the intentional cancellation thereof by the holder;
4. By any other act which will discharge a simple contract for the payment of money;
5. When the principal debtor becomes the holder of the instrument at or after maturity in his own right.

§ 120. DISCHARGED, SECONDARILY.] A person secondarily liable on the instrument is discharged:

1. By any act which discharges the instrument;
2. By the intentional cancellation of his signature by the holder;
3. By the discharge of a prior party;
4. By a valid tender of payment made by a prior party;
5. By a release of the principal debtor, unless the holder's right of recourse against the party secondarily liable is expressly reserved;
6. By any agreement binding upon the holder to extend the time of payment, or to postpone the holder's right to enforce the instrument, unless made with the assent of the party secondarily liable, or unless the right of recourse against such party is expressly reserved.

§ 121. SECONDARILY LIABLE.] Where the instrument is paid by a party secondarily liable thereon, it is not discharged; but the party so paying it is remitted to his former rights as regards all prior parties, and he may strike out his own and all subsequent indorsements, and again negotiate the instrument, except:

1. Where it is payable to the order of a third person, and has been paid by the drawer; and
2. Where it was made or accepted for accommodation, and has been paid by the party accommodated.

§ 122. HOLDER MAY RENOUNCE HIS RIGHTS.] The holder may expressly renounce his rights against any party to the instrument, before, at or after its maturity. An absolute and unconditional renunciation of his rights against the principal debtor made at or after the maturity of the instrument discharges the instrument. But a renunciation does not affect the rights of a holder in due course without notice. A renunciation must be in writing, unless the instrument is delivered up to the person primarily liable thereon.

§ 123. CANCELLATION.] A cancellation made unintentionally, or under a mistake, or without the authority of the holder, is inoperative; but where an instrument or any signature thereon appears to have been cancelled the burden of proof lies on the party who alleges that the cancellation was made unintentionally, or under a mistake or without authority.

§ 124. NEGOTIABLE INSTRUMENTS, WHEN ALTERED.] Where a negotiable instrument is materially altered without the assent of all parties liable thereon, it is avoided, except as against a party who has himself made, authorized or assented to the alteration and subsequent indorsers.

But when an instrument has been materially altered and is in the hands of a holder in due course, not a party to the alteration, he may enforce payment thereof according to its original tenor.

§ 125. ALTERATIONS OR CHANGES.] Any alteration which changes:

1. The date;
2. The sum payable, either for principal or interest;
3. The time or place of payment;
4. The number or the relations of the parties;
5. The medium or currency in which payment is to be made;

Or which adds a place of payment where no place of payment is specified, or any other change or addition which alters the effect of the instrument in any respect, is a material alteration.

TITLE II.

BILLS OF EXCHANGE.

ARTICLE 1.

FORM AND INTERPRETATION.

§ 126. BILL OF EXCHANGE.] A bill of exchange is an unconditional order in writing addressed by one person to another, signed by the person giving it, requiring the person to whom it is addressed to pay on demand or at a fixed or determinable future time a sum certain in money to order or to bearer.

§ 127. DOES NOT OPERATE AS AN ASSIGNMENT.] A bill of itself does not operate as an assignment of the funds in the hands of the drawee available for the payment thereof and the drawee is not liable on the bill unless and until he accepts the same.

§ 128. JOINT DRAWEES.] A bill may be addressed to two or more drawees jointly, whether they are partners or not; but not to two or more drawees in the alternative or in succession.

§ 129. INLAND OR EXCHANGE BILL.] An inland bill of exchange is a bill which is, or on its face purports to be both drawn and payable within this state. Any other bill is a foreign bill. Unless the contrary appears on the face of the bill, the holder may treat it as an inland bill.

§ 130. DRAWER AND DRAWEE.] Where in a bill drawer and drawee are the same person, or where the drawee is a fictitious person, or a person not having capacity to contract, the holder may treat the instrument, at his option, either as a bill of exchange or a promissory note.

§ 131. DRAWER MAY INSERT OTHER NAMES.] The drawer of a bill and any indorser may insert thereon the name of a person to whom the holder may resort in case of need, that is to say, in case the bill is dishonored by non-acceptance or non-payment. Such person is called the referee in case of need. It is in the option of the holder to resort to the referee in case of need or not as he may see fit.

ARTICLE II.

ACCEPTANCE.

§ 132. ACCEPTANCE OF A BILL.] The acceptance of a bill is the signification by the drawee of his assent to the order of the drawer. The acceptance must be in writing and signed by the drawer. It must not express that the drawee will perform his promise by any other means than the payment of money.

§ 133. HOLDER OF A BILL.] The holder of a bill presenting the same for acceptance may require that the acceptance be written on the bill and if such request is refused, may treat the bill as dishonored.

§ 134. ACCEPTOR NOT NECESSARILY BOUND.] Where an acceptance is written on a paper other than the bill itself, it does not bind the acceptor except in favor of a person to whom it is shown and who, on the faith thereof, receives the bill for value.

§ 135. UNCONDITIONAL PROMISE.] An unconditional promise in writing to accept a bill before it is drawn is deemed an actual acceptance in favor of every person who, upon the faith thereof, receives the bill for value.

§ 136. DRAWEE ALLOWED TWENTY-FOUR HOURS.] The drawee is allowed twenty-four hours after presentment in which to decide whether or not he will accept the bill; but the acceptance if given dates as of the day of presentation.

§ 137. WHEN DRAWEE DESTROYS BILL.] Where a drawee to whom a bill is delivered for acceptance destroys the same, or refuses within twenty-four hours after such delivery, or within such

other period as the holder may allow; to return the bill accepted or non-accepted to the holder, he will be deemed to have accepted the same.

§ 138. MAY BE ACCEPTED BEFORE BEING SIGNED.] A bill may be accepted before it has been signed by the drawer, or while otherwise incomplete, or when it is overdue, or after it has been dishonored by a previous refusal to accept, or by non-payment. But when a bill payable after sight is dishonored by non-acceptance and the drawee subsequently accepts it, the holder, in the absence of any different agreement, is entitled to have the bill accepted as of the date of the first presentment.

§ 139. ACCEPTANCE, GENERAL OR QUALIFIED.] An acceptance is either general or qualified. A general acceptance assents without qualification to the order of the drawer. A qualified acceptance in express terms varies the effect of the bill as drawn.

§ 140. GENERAL ACCEPTANCE.] An acceptance to pay at a particular place is a general acceptance unless it expressly states that the bill is to be paid there only and not elsewhere.

§ 141. QUALIFIED ACCEPTANCE.] An acceptance is qualified, which is:

1. Conditional, that is to say, which makes payment by the acceptor dependent on the fulfillment of a condition therein stated;
2. Partial, that is to say, an acceptance to pay part only of the amount for which the bill is drawn;
3. Local, that is to say, an acceptance to pay only at a particular place
4. Qualified as to time;
5. The acceptance of some one or more of the drawees, but not of all.

§ 142. HOLDER MAY REFUSE QUALIFIED ACCEPTANCE.] The holder may refuse to take a qualified acceptance, and if he does not obtain an unqualified acceptance, he may treat the bill as dishonored by non-acceptance. Where a qualified acceptance is taken, the drawer and indorsers are discharged from liability on the bill, unless they have expressly or impliedly authorized the holder to take a qualified acceptance, or subsequently assent thereto. When the drawer or an indorser receives notice of a qualified acceptance, he must within a reasonable time express his dissent to the holder, or he will be deemed to have assented thereto.

ARTICLE III.

PRESENTMENT FOR ACCEPTANCE.

§ 143. ACCEPTANCE, WHERE MADE.] Presentment for acceptance must be made:

1. Where the bill is payable after sight, or in any other case where presentment for acceptance is necessary in order to fix the maturity of the instrument; or

2. Where the bill expressly stipulates that it shall be presented for acceptance; or

3. Where the bill is drawn payable elsewhere than at the residence or place of business of the drawee.

In no other case is presentment for acceptance necessary in order to render any party to the bill liable.

§ 144. **HOLDER MUST ACCEPT OR NEGOTIATE.]** Except as herein otherwise provided, the holder of a bill which is required by the next preceding section to be presented for acceptance must either present it for acceptance or negotiate it within a reasonable time. If he fail to do so, the drawer and all indorsers are discharged.

§ 145. **PRESENTMENT MUST BE MADE AT REASONABLE HOUR.]** Presentment for acceptance must be made by or on behalf of the holder at a reasonable hour, on a business day and before the bill is overdue, to the drawer or some person authorized to accept or refuse acceptance on his behalf; and:

1. Where a bill is addressed to two or more drawees who are not partners, presentment must be made to them all, unless one has authority to accept or refuse acceptance for all, in which case presentment may be made to him only;

2. Where the drawee is dead, presentment may be made to his personal representative;

3. Where the drawee has been adjudged a bankrupt or an insolvent or has made an assignment for the benefit of creditors, presentment may be made to him or to his trustee or assignee.

§ 146. **BILLS MAY BE PRESENTED ANY DAY EXCEPT HOLIDAYS.]** A bill may be presented for acceptance on any day on which negotiable instruments may be presented for payment under the provisions of sections 72 and 85 of this act. When Saturday is not otherwise a holiday presentment for acceptance may be made before twelve o'clock noon on that day.

§ 147. **PAYMENTS, WHEN EXCUSED.]** Where the holder of a bill drawn payable elsewhere than at the place of business or the residence of the drawee has not time with the exercise of reasonable diligence to present the bill for acceptance before presenting it for payment on the day that it falls due, the delay caused by presenting the bill for acceptance before presenting it for payment is excused and does not discharge the drawers and indorsers.

§ 148. **DISHONORED BY NON-ACCEPTANCE.]** Presentment for acceptance is excused and a bill may be treated as dishonored by non-acceptance, in either of the following cases:

1. Where the drawee is dead, or has absconded, or is a fictitious person or a person not having capacity to contract by bill;

2. Where after the exercise of reasonable diligence, presentment cannot be made;

3. Where although presentment has been irregular, acceptance has been refused on some other ground.

§ 149. **WHEN DISHONORED.]** A bill is dishonored by non-acceptance:

1. When it is duly presented for acceptance and such an acceptance as is prescribed by this act is refused or cannot be obtained; or
2. When presentment for acceptance is excused and the bill is not accepted.

§ 150. WHEN BILL IS NOT ACCEPTED.] Where a bill is duly presented for acceptance and is not accepted within the prescribed time, the person presenting it must treat the bill as dishonored by non-acceptance or he loses the right of recourse against the drawer and indorsers.

§ 151. RIGHT OF RECOURSE.] When a bill is dishonored by non-acceptance, an immediate right of recourse against the drawers and indorsers accrues to the holder and no presentment for payment is necessary.

ARTICLE IV.

PROTEST.

§ 152. PROTEST FOR NON-PAYMENT.] Where a foreign bill appearing on its face to be such is dishonored by non-acceptance, it must be duly protested for non-acceptance, and where such a bill which has not previously been dishonored by non-acceptance is dishonored by non-payment, it must be duly protested for non-payment. If it is not so protested, the drawer and indorsers are discharged. Where a bill does not appear on its face to be a foreign bill; protest thereof in case of dishonor is unnecessary.

§ 153. PROTEST MUST BE ATTACHED TO BILL.] The protest must be annexed to the bill, or must contain a copy thereof, and must be under the hand and seal of the notary making it, and must specify:

1. The time and place of presentment;
2. The fact that presentment was made and the manner thereof;
3. The cause or reason for protesting the bill;
4. The demand made and the answer given, if any, or the fact that the drawee or acceptor could not be found.

§ 154. PROTEST, HOW MADE.] Protest may be made by:

1. A notary public; or
2. By any respectable resident of the place where the bill is dishonored, in the presence of two or more credible witnesses.

§ 155. PROTEST MUST BE MADE ON DAY OF DISHONOR.] When a bill is protested, such protest must be made on the day of its dishonor, unless delay is excused as herein provided. When a bill has been duly noted, the protest may be subsequently extended as of the date of the noting.

§ 156. AT PLACE WHERE DISHONORED.] A bill must be protested at the place where it is dishonored, except that when a bill drawn payable at the place of business or residence of some person other than the drawee, has been dishonored by non-acceptance, it must be protested for non-payment at the place where it is expressed to be payable, and no further presentment for payment to, or demand on, the drawee is necessary.

§ 157. PROTEST FOR NON-PAYMENT.] A bill which has been protested for non-acceptance may be subsequently protested for non-payment.

§ 158. ACCEPTOR, IN CASE HE IS A BANKRUPT.] Where the acceptor has been adjudged a bankrupt or an insolvent or has made an assignment for the benefit of creditors, before the bill matures, the holder may cause the bill to be protested for better security against the drawer and indorsers.

§ 159. WHEN PROTEST DISPENSED WITH.] Protest is dispensed with by any circumstances which would dispense with notice of dishonor. Delay in noting or protesting is excused when delay is caused by circumstances beyond the control of the holder and not imputable to his default, misconduct or negligence. When the cause of delay ceases to operate, the bill must be noted or protested with reasonable diligence.

§ 160. BILLS LOST OR DESTROYED.] Where a bill is lost or destroyed or is wrongly detained from the person entitled to hold it, protest may be made on a copy or written particulars thereof.

ARTICLE V.

ACCEPTANCE FOR HONOR.

§ 161. ACCEPTANCE FOR HONOR.] Where a bill of exchange has been protested for dishonor by non-acceptance or protest for better security and is not overdue, any person not being a party already liable thereon, may, with the consent of the holder, intervene and accept the bill supra protest for the honor of any party liable thereon or for the honor of the person for whose account the bill is drawn. The acceptance for honor may be for part only of the sum for which the bill is drawn; and where there has been an acceptance for honor for one party, there may be a further acceptance by a different person for the honor of another party.

§ 162. MUST BE IN WRITING.] An acceptance for honor supra protest must be in writing and indicate that it is an acceptance for honor, and must be signed by the acceptor for honor.

§ 163. ACCEPTANCE, WHEN DEEMED FOR THE HONOR OF THE DRAWER.] Where an acceptance for honor does not expressly state for whose honor it is made, it is deemed to be an acceptance for the honor of the drawer.

§ 164. ACCEPTOR, WHEN LIABLE TO THE HOLDER.] The acceptor for honor is liable to the holder and to all parties to the bill subsequent to the party for whose honor he has accepted.

§ 165. WHAT THE ACCEPTOR FOR HONOR ENGAGES TO DO.] The acceptor for honor by such acceptance engages that he will on due presentment pay the bill according to the terms of his acceptance, provided it shall not have been paid by the drawee, and provided also, that it shall have been duly presented for payment and protested for non-payment and notice of dishonor given to him.

§ 166. BILL PAYABLE AFTER SIGHT.] Where a bill payable after sight is accepted for honor, its maturity is calculated from the date of the noting for non-acceptance and not from the date of the acceptance for honor.

§ 167. DISHONORED BILL, WHEN ACCEPTED FOR HONOR.] Where a dishonored bill has been accepted for honor supra protest or contains a reference in case of need, it must be protested for non-payment before it is presented for payment to the acceptor for honor or referee in case of need.

§ 168. PRESENTMENT FOR PAYMENT, HOW MADE.] Presentment for payment to the acceptor for honor must be made as follows:

1. If it is to be presented in the place where the protest for non-payment was made, it must be presented not later than the day following its maturity;

2. If it is to be presented in some other place than the place where it was protested, then it must be forwarded within the time specified in section 104.

§ 169. DELAY IN MAKING PRESENTMENT.] The provisions of section 81 apply where there is delay in making presentment to the acceptor for honor or referee in case of need.

§ 170. WHEN PROTESTED FOR NON-PAYMENT.] When the bill is dishonored by the acceptor for honor it must be protested for non-payment by him.

ARTICLE VI.

PAYMENT FOR HONOR.

§ 171. PAYMENT FOR HONOR.] Where a bill has been protested for non-payment, any person may intervene and pay it supra protest for the honor of any person liable thereon or for the honor of the person for whose account it was drawn.

§ 172. NOTARIAL ACT OF HONOR.] The payment for honor supra protest in order to operate as such and not as a mere voluntary payment must be attested by a notarial act of honor which may be appended to the protest or form an extension to it.

§ 173. FOUNDED ON A DECLARATION.] The Notarial act of honor must be founded on a declaration made by the payer for honor or by his agent in that behalf declaring his intention to pay the bill for honor and for whose honor he pays.

§ 174. IN CASE TWO OR MORE PERSONS OFFER TO PAY A BILL.] Where two or more persons offer to pay a bill for the honor of different parties, the person whose payment will discharge most parties to the bill is to be given the preference.

§ 175. WHERE A BILL HAS BEEN PAID FOR HONOR.] Where a bill has been paid for honor all parties subsequent to the party for whose honor it is paid are discharged, but the payer for honor is subrogated for, and succeeds to, both the rights and duties of the

holder as regards the party for whose honor he pays and all parties liable to the latter.

§ 176. WHERE HOLDER REFUSES TO RECEIVE PAYMENT.] Where the holder of a bill refuses to receive payment supra protest, he loses his right of recourse against any party who would have been discharged by such payment.

§ 177. RIGHTS OF PAYER FOR HONOR.] The payer for honor on paying to the holder the amount of the bill and the notarial expenses incidental to its dishonor, is entitled to receive both the bill itself and the protest.

ARTICLE VII.

BILLS IN A SET.

§ 178. BILLS DRAWN IN SETS.] Where a bill is drawn in a set, each part of the set being numbered and containing a reference to the other parts, the whole of the parts constitute one bill.

§ 179. TWO OR MORE PARTS OF SET.] Where two or more parts of a set are negotiated to different holders in due course, the holder whose title first accrues is as between such holders and the true owner of the bill. But nothing in this section affects the rights of a person who in due course accepts or pays the part first presented to him.

§ 180. TWO OR MORE PARTS INDORSED.] Where the holder of a set indorses two or more parts to different persons he is liable on every such part, and every indorser subsequent to him is liable on the part he has himself indorsed, as if such parts were separate bills.

§ 181. ACCEPTANCE MAY BE WRITTEN.] The acceptance may be written on any part and it must be written on one part only. If the drawee accepts more than one part, and such accepted parts are negotiated to different holders in due course, he is liable on every such part as if it were a separate bill.

§ 182. ACCEPTOR LIABLE TO HOLDER, WHEN.] When the acceptor of a bill drawn in a set pays it without requiring the part bearing his acceptance to be delivered up to him, and that part at maturity is outstanding in the hands of a holder in due course, he is liable to the holder thereon.

§ 183. WHEN THE WHOLE BILL IS DISCHARGED.] Except as herein otherwise provided where any one part of a bill drawn in a set is discharged by payment or otherwise the whole bill is discharged.

TITLE III.

ARTICLE I.

PROMISSORY NOTES AND CHECKS.

§ 184. NEGOTIABLE PROMISSORY NOTE.] A negotiable promissory note within the meaning of this act is an unconditional promise

in writing made by one person to another signed by the maker engaging to pay on demand or at a fixed or determinable future time, a sum certain of money to order or to bearer. Where a note is drawn to the maker's own order, it is not complete until indorsed by him.

§ 185. A CHECK DEFINED.] A check is a bill of exchange drawn on a bank payable on demand. Except as herein otherwise provided, the provisions of this act applicable to a bill of exchange payable on demand apply to a check.

§ 186. CHECK MUST BE PRESENTED WITHIN REASONABLE TIME.] A check must be presented for payment within a reasonable time after its issue or the drawer will be discharged from liability thereon to the extent of the loss caused by the delay.

§ 187. CERTIFIED CHECKS.] Where a check is certified by the bank on which it is drawn, the certification is equivalent to an acceptance.

§ 188. DRAWER, WHEN NOT LIABLE.] Where the holder of a check procures it to be accepted or certified the drawer and all indorsers are discharged from liability thereon.

§ 189. CHECK DOES NOT OPERATE AS AN ASSIGNMENT.] A check of itself does not operate as an assignment of any part of the funds to the credit of the drawer with the bank, and the bank is not liable to the holder, unless and until it accepts or certifies the check.

TITLE IV.

ARTICLE I.

GENERAL PROVISIONS.

§ 190. NEGOTIABLE INSTRUMENT LAW.] This act shall be known as the Negotiable Instruments Law.

§ 191. DEFINITIONS OF TERMS] In this act, unless the context otherwise requires:

"Acceptance" means an acceptance completed by delivery or notification.

"Action" includes counter-claim and set-off.

"Bank" includes any person or association of persons carrying on the business of banking, whether incorporated or not.

"Bearer" means the person in possession of a bill or note which is payable to bearer.

"Bill" means bill of exchange, and "note" means negotiable promissory note.

"Delivery" means transfer of possession, actual or constructive, from one person to another.

"Holder" means the payee or indorsee of a bill or note, who is in possession of it, or the bearer thereof.

"Indorsement" means an indorsement completed by delivery.

"Instrument" means negotiable instrument.

"Issue" means the first delivery of the instrument, complete in form to a person who takes it as a holder.

"Person" includes a body of persons, whether incorporated or not.

"Value" means valuable consideration.

"Written" includes printed, and "writing" includes print.

§ 192. The person "primarily" liable on an instrument is the person who by the terms of the instrument is absolutely required to pay the same. All other parties are "secondarily liable."

§ 193. "REASONABLE" AND "UNREASONABLE TIME."] In determining what is a "reasonable time" or an "unreasonable time" regard is to be had to the nature of the instrument, the usage of trade or business (if any) with respect to such instruments, and the facts of the particular case.

§ 194. SUNDAYS OR HOLIDAYS.] Where the day, or the last day, for doing any act herein required or permitted to be done falls on Sunday or a holiday, the act may be done on the next succeeding secular or business day.

§ 195. WHEN PROVISIONS OF ACT APPLY.] The provisions of this act do not apply to negotiable instruments made and delivered prior to the passage hereof.

§ 196. RULES OF THE LAW MERCHANT GOVERN.] In any case not provided for in this act the rules of the law merchant shall govern.

Approved March 7, 1899.

NOTES OF ISSUE.

CHAPTER 114.

[S. B. 47.]

NOTICE OF TRIAL.

AN ACT to Amend Section 5422 of the Revised Codes, Relating to Note of Issue, Notice of Trial and Order of Trials.

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

§ 1. AMENDMENT.] That section 5422 of the Revised Codes of North Dakota be and the same hereby is amended to read as follows, to-wit:

§ 5422. NOTE OF ISSUE. CONTENTS. NOTICE OF TRIAL. ORDER OF TRIAL.] At any time after issue and at least ten days before the court, either party may give notice of trial. The party giving the notice shall furnish the clerk, at least eight days before the court, with a note of the issue containing the title of the action, the names of the attorneys and the time when the last pleading was served, and the clerk shall thereupon enter the cause upon the calendar according to the date of the issue. The party upon whom notice of trial is served may also file the note of issue and cause the action to be placed on the calendar without further notice on his part. There need be but one notice of trial and one note of issue and the action must then remain on the calendar until disposed of. Either party, after the notice of trial—whether given by himself or by the adverse party—may bring the issue to trial. The issues on the calendar shall be disposed of in the following order unless, for the convenience of parties or the dispatch of business, the court shall otherwise direct.

1. Issue of fact to be tried by a jury.
2. Issues of fact to be tried by the court.
3. Issues of law.

Approved March 2, 1899.

NOXIOUS WEEDS.

CHAPTER 115.

[H. B. 127.]

CUTTING AND REMOVING OF WEEDS.

AN ACT to Provide for the Cutting or Removing of Weeds Along the Public Highways, Streets and Alleys.

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

§ 1. CUTTING AND REMOVING WEEDS.] It shall be the duty of the road overseer in all organized townships, and the street commissioner of all villages or cities within the State of North Dakota, to cause all weeds growing along, or upon all public highways, streets and alleys in their respective road districts, villages or cities, to be cut or removed before the first day of August of each year, such work to be performed same as all other road work, and paid for in the same manner.

Approved March 8, 1899.

OFFICIAL BONDS.

CHAPTER 116.

[H. B. 29.]

OFFICIAL BONDS.

AN ACT to Provide for the Giving of Proper Official Bonds by County Treasurers, and to Provide for the Payment of the Expense Incurred in Procuring the Same.

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

§ 1. OFFICIAL BONDS.] That every person hereafter elected to the office of treasurer of any county within the State of North Dakota, be and is hereby required to give an official bond in a penal sum to be fixed by the board of county commissioners, which bond shall not be in a less penal sum than four thousand dollars, except when the total amount of taxes to be collected by him in any year is less than two thousand dollars, then in double the amount of taxes to be collected; but in no case shall the amount of such bond be less than two thousand dollars, and such bond shall be executed by some responsible surety or fidelity company, authorized and qualified to do business within the State of North Dakota, and subject to approval as provided by law.

§ 2. The amount of the premium for such surety or fidelity bond shall be audited by the board of county commissioners, and paid out of the general fund of the county.

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

Approved March 2, 1899.

OIL INSPECTOR.

CHAPTER 117.

[H. B. 145.]

COMPENSATION.

AN ACT to Provide for the Compensation of the State Oil Inspector and His Deputies and to Define the Duties Thereof, by Prescribing Penalty for the Violation Thereof

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

§ 1. ITEMIZED REPORT. COMPENSATION.] The state oil inspector shall receive, in lieu of all other compensation provided by law, the sum of two thousand five hundred (\$2,500) dollars per annum, payable quarterly out of any money in the state treasury not otherwise appropriated. It shall be the duty of said oil inspector on the first Tuesday in July, October, January and April in each year to make a detailed and itemized report to the treasurer of all sums of money received by him of fees collected for the inspection of oils and of all moneys coming into his hands from any other source by virtue of his said office. Said report shall also show the number of barrels of oil inspected at each inspection, when and where inspected and for whom, and the total number of barrels inspected for the preceding quarter. He shall affix to each of said reports an affidavit stating that the report is true to the best of his knowledge and belief. If such officer shall make a false report he shall be deemed guilty of perjury and shall be punished by imprisonment in the state penitentiary for not less than two nor more than five years.

§ 2. DEPUTIES SHALL MAKE ITEMIZED STATEMENTS.] It shall be the duty of each and every deputy appointed by the state oil inspector on the first Tuesday in July, October, January and April in each year to make in duplicate a detailed and itemized statement of all the fees and moneys received and collected by him for the inspection of oils and from all other sources by virtue of his said office. Said report shall also show the number of barrels of oil inspected at each inspection, when and where inspected, for whom, and the total number of barrels inspected for the preceding quarter. To each of said reports shall be attached an affidavit stating that the report and the whole thereof is true. If such deputy shall make false report he shall be deemed guilty of perjury and shall be punished by imprisonment in the state penitentiary for not

less than two nor more than five years. Said report shall be made in duplicate and one copy immediately mailed to the state oil inspector and the other to the treasurer. It shall be the duty of each deputy to pay over to the state oil inspector quarterly, or oftener if required by him, all fees collected and other moneys received by virtue of his office, taking his receipt therefor.

§ 3. QUARTERLY PAYMENTS.] It shall be the duty of the state oil inspector to pay over to the state treasurer quarterly all moneys received for the inspection of oils and all moneys received from all other sources by virtue of his said office, taking the receipt of the treasurer therefor.

§ 4. NO OTHER COMPENSATION.] The deputy oil inspectors shall be paid by the state oil inspector and shall receive no other compensation for services performed by virtue of their said office, except in case mileage is collected as provided in section 5 of this act.

§ 5. PORTS OF ENTRY.] All illuminating oils when shipped into the state shall be inspected on entering the state. The following points being designated as ports of entry: Fairmount, Wahpeton, Fargo, Grand Forks, Oakes and Ellendale. For making inspection at other than said points the inspector or his deputies shall be entitled in addition to fees prescribed to mileage at the rate of 10 cents per mile for each mile actually travelled. Such mileage to be paid by the party for whom inspection is made, and to be retained by inspector or deputy making inspection.

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

Provided, also, that this act shall not apply to the oil inspector appointed by the present governor.

Approved March 8, 1899.

PEDDLING.

CHAPTER 118.

[S. B. 99.]

LICENSING OF PEDDLERS.

AN ACT Entitled "An Act Taxing the Occupation of Hawking and Peddling, and Regulating the Licensing of Persons Engaged in Such Occupation."

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

§ 1. UNLAWFUL TO PEDDLE WITHOUT LICENSE.] It shall be unlawful for any person to travel from place to place in any county within this state for the purpose of carrying to sell, or exposing or

offering to sell, barter or exchange, any goods, wares, merchandise, or other property whatsoever, without first obtaining a license therefor from the auditor of said county.

§ 2. APPLICATION IN WRITING.] Each person desiring to obtain a license as a peddler, shall make application in writing to the county auditor of the county in which he desires to peddle, which application shall be signed by the applicant, and shall state in what manner the applicant desires to travel as a peddler, whether on foot or with one or more horses or other beasts of burden.

§ 3. AMOUNT TO BE PAID INTO COUNTY TREASURY.] Each applicant, before he shall be entitled to such license, shall pay into the county treasury of the county where such application is made, the following sums respectively as and for the taxes due from him on account of the pursuit of the occupation of peddling, to-wit: If for a license to travel on foot the sum of \$25.00; if for a license to travel and carry his goods with a single horse, or other beast carrying or drawing a burden, the sum of \$100.00; if for a license to travel with a vehicle or carriage drawn by two or more horses, or other animals, the sum of \$50.00. Said license shall authorize the holder thereof to pursue within said county the business of hawking and peddling in the manner set forth in said license for the period of one year from the date of its issue, and no longer.

§ 4. COUNTY AUDITOR SHALL GRANT LICENSE FOR ONE YEAR.] The county auditor upon the filing of such application together with the treasurer's receipt for the proper license fee, shall grant such applicant a license under his official seal authorizing such licensee to travel and pursue the business in the manner stated in his application, for the term of one year from the date of the issuance of such license.

§ 5. AUDITOR SHALL MAKE A RECORD.] It shall be the duty of the county auditor issuing a license under this act to make a record of the same including the date when issued, the name of the person receiving the license, the purpose for which issued, and the amount received therefor.

§ 6. PENALTY FOR VIOLATION.] Any person found traveling or trading in any county in this state contrary to the provisions of this act, or who shall refuse to produce his license for examination when requested so to do by any resident or officer of the county in which said person shall be traveling as a peddler, shall be deemed guilty of a misdemeanor and upon conviction thereof punished by a fine not exceeding \$50.00, or by imprisonment in the county jail where the offense was committed, not exceeding thirty days, or by both.

§ 7. HOW CONSTRUED.] Nothing contained in this article shall be so construed as to impair, interfere with or take away any existing rights or authority of incorporated cities, towns and villages to license and regulate peddlers within their incorporated limits.

§ 8. EMERGENCY.] Whereas, an emergency exists requiring that this act shall take effect immediately, it is hereby declared that

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

Approved February 24, 1899.

PENITENTIARY.

CHAPTER 119.

[H. B. 18.]

OFFICERS AND TRUSTEES.

AN ACT Entitled an Act to Amend Section 8531 of the Revised Codes of 1895 and to Repeal Section 8538 of said Codes, Relating to the Officers and Trustees of the State Penitentiary.

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

§ 1. AMENDMENT.] That section 8531 of the Revised Codes of 1895 be amended so as to read as follows:

The officers of the penitentiary shall be one warden, who shall be its general superintendent and secretary of the board of trustees; one deputy warden, who shall be chief turnkey; one bookkeeper, who shall be assistant gatekeeper; one, or in the discretion of the board of trustees and warden, two chaplains, and such other officers, guards, overseers, agents and employes as may be necessary. The warden and deputy warden shall reside at the penitentiary.

§ 2. REPEAL.] That section 8538 of the Revised Codes of 1895 and any and all other provisions of law in conflict with the foregoing be and the same are hereby repealed.

§ 3. EMERGENCY.] An emergency exists in that there is no law covering parts of the foregoing and, therefore, this act shall take effect and be in force from and after its passage and approval.

Approved February 21, 1899.

PERSONAL PROPERTY.

CHAPTER 120.

[S. B. 54.]

FORECLOSURE PROCEEDINGS.

AN ACT to Amend Section 5887 of the Revised Codes, Relating to the Foreclosure Upon Personal Property.

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

§ 1. AMENDMENT.] Section 5887 of the Revised Codes is hereby amended to read as follows:

§ 5887. WHEN SALE MADE. POSTPONEMENT.] All sales under this article shall be commenced between the hours of twelve o'clock noon and four o'clock in the afternoon on Saturday within thirty days after the seizure of the property, unless the sale shall be postponed. Any sale may be postponed one week by public announcement at the time of postponement when there are no bidders, or when the amount offered is grossly inadequate, or upon request of the mortgagor; provided, that when any mortgage on crops contains a stipulation to that effect, it may be foreclosed by a sale of such crop, when harvested, in any usual market therefor, at any time, in the usual manner, at the market price thereof, in such market and without the notice hereinbefore provided; and the usual and reasonable charges for such sale and for the transportation of such grain to such market, shall be deemed proper expenses in such foreclosure.

§ 2. EMERGENCY.] Whereas, an emergency exists in that there is no inexpensive method of foreclosing chattel mortgages on crops having a fixed market value; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved February 25, 1899.

POUNDS AND POUNDMASTERS.

CHAPTER 121.

[H. B. 154.]

RELATING TO POUNDS.

AN ACT to Amend Section 2655 of the Revised Codes, 1895, Relating to Pounds and Poundmasters.

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

§ 1. AMENDMENT.] That section 2655 of the Revised Codes be amended so as to read as follows:

§ 2655. Out of the money realized from such sale the poundmaster shall deduct all his legal fees and charges and pay the balance, if any, to the chairman of the township supervisors, at the same time giving to the supervisors an accurate description of the animals sold and the amount received by him for each animal, and shall take a receipt and duplicate therefor and file one of them with the township clerk; provided, that the supervisors shall at any time within six months, upon sufficient proof from the owner of any animal so sold, pay to such owner the balance due as received from said poundmaster; but if said money is not claimed within that time then the sum so received shall be retained for the use of the township; provided, that in unorganized townships and in townships which have been dissolved as civil townships, the county commissioners are hereby authorized on the petition of a majority of the legal voters of such townships to do and perform any and all acts that the electors might do of a civil township as prescribed in sections 2652, 2653 and 2654, being article 21 of chapter 31 of the Revised Codes of North Dakota.

§ 2. EMERGENCY.] Whereas, there is now no law providing for pounds and poundmasters in unorganized townships, an emergency exists; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 9, 1899.

PRAIRIE FIRES.

CHAPTER 122.

[S. B. 97.]

FIRE BREAKS AND PREVENTION OF FIRES.

AN ACT to Amend Sections 1663, 1664 and 1667 of the Revised Codes of the State of North Dakota of 1895, Relating to the Purchase of Tools and Appliances for Making Fire Breaks and for the Prevention of Prairie Fires, Prescribing the Duties of County Commissioners in Regard to the Prevention of Prairie Fires, Providing for the Appointment of Fire Wardens, Fixing Bonds and Prescribing the Duties Thereof, and Providing for the Levy of a Tax by the County Commissioners for the Prevention of Prairie Fires, Also for the Repeal of Sections 1665, 1666, 1670, 1671 and 1672 of said Revised Codes.

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

§ 1. AMENDMENT.] That sections 1663, 1664 and 1667 of the Revised Codes be amended and re-enacted to read as follows:

§ 1663. It shall be lawful for the county commissioners in any county in this state to provide from the fire break fund hereinafter provided for, such tools and appliances as may be necessary to aid and assist in making fire breaks to prevent the spread of prairie fires.

§ 1664. Whenever a petition signed by at least ten per centum of the qualified electors of any county in this state as determined by the vote for governor at the last preceding general election is presented to the board of county commissioners of any such county, such board of county commissioners shall at the time of levying other taxes, in each year, levy an amount, not exceeding five mills on the dollar upon all taxable property in the county for the purpose of making fire breaks in said county in each year, which sum shall constitute and be known as the fire break fund and said board of county commissioners shall from time to time divide the county into as many districts as may in its judgment be necessary and each district so formed shall be known and designated as fire district No. —, and said board of county commissioners may in their discretion appoint a suitable person, residing in each of said districts as fire warden thereof, who shall carry out all instructions of said board in said district in reference to the making of fire breaks and the prevention of the spread of prairie fires, which fire warden shall be paid such sum as may be fixed by said board, not exceeding three dollars per day for each day actually employed in the discharge of his

duties. Such fire warden shall take and subscribe the official oath and shall file a bond in the sum of five hundred dollars with at least two good and sufficient sureties to be approved by the said board, conditioned for the faithful discharge of the duties of such fire warden. All fire breaks made under the provisions hereof shall be made in each year at as early a date as possible with a view to the most efficient protection of property from prairie fires.

§ 1667. The county commissioners may use their discretion and take advantage of any creek, river or other natural or artificial barrier to prairie fires and of broken or plowed fields and may in their judgment map out each of said fire districts in any form so that when the fire guards are made under their instructions as hereinbefore provided for, a prairie fire may be confined to the smallest possible area consistent with the amount of funds available.

§ 2. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed, more especially sections 1665, 1666, 1670, 1671 and 1672 of the Revised Codes of 1895.

Approved February 24, 1899.

PUBLIC PRINTING.

CHAPTER 123.

[H. B. 75.]

RELATING TO REVISED CODES.

AN ACT to Amend Chapter 114, Session Laws of 1897, Entitled "An Act to Amend Section 76 of the Revised Codes of North Dakota, Relating to Accounts for Printing and Binding Required by State Officers and Making an Annual Appropriation Therefor." Authorizing the Revision of the Revised Codes of 1895 and the Publication of an Edition to be Known as the "Revised Codes of 1899."

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

§ 1. AMENDMENT.] Chapter 114, Session Laws of 1897, is hereby amended to read as follows:

§ 76. PRINTING ACCOUNTS TO BE APPROVED, APPROPRIATION FOR.] All accounts for printing and binding required by the governor and other state officials, and for such printing and binding as may be authorized by the legislative assembly shall be certified to according to law, and when such accounts shall have been approved in writing by the secretary of state, whose duty it shall be to keep a record of and carefully examine all printing so authorized; the state auditor shall draw his warrant on the state treasurer for such sums as may be found due, and there is hereby appropriated out of

any moneys in the state treasury not otherwise appropriated a sum sufficient to pay for said printing; provided that the total sum to be expended under the provisions of this section shall not exceed the sum of fifteen thousand dollars per annum.

§ 2. APPROPRIATION.] The appropriation herein made shall also cover the expense of publishing a revised edition of the Revised Codes under the direction of the secretary of state.

§ 3. SECRETARY OF STATE SHALL HAVE GENERAL SUPERVISION.] As soon as practicable after the adjournment of the Sixth legislative assembly the secretary of state is authorized without altering the general plan of the Revised Codes of 1895, to eliminate such sections, articles and chapters therein as shall have been repealed by the legislative assemblies of 1897 and 1899, substitute and incorporate under proper headings all new laws enacted, and incorporate all amendments without change or modification, renumber the sections, articles and chapters where necessary to perfect and harmonize the statutes, and reindex and rearrange the table of contents, and in a general way supervise the compilation and have charge of the publication of the revised edition of the codes to be known as the Revised Codes of 1899.

§ 4. SECRETARY EMPOWERED TO EMPLOY EXPERTS.] In order that said edition of the Revised Codes may be issued as speedily as possible, and with the least expense to the state, the secretary of state is hereby empowered to employ one or more expert compilers and digesters who shall be learned in the law and familiar with work to be performed, and he may also employ one or more stenographers and typewriters as may in his judgment be deemed necessary to facilitate the work and prepare the copy for said publication, the same to be completed and the codes ready for delivery within six months from the adjournment of the Sixth legislative assembly.

§ 5. GOVERNOR SHALL ISSUE PROCLAMATION.] When the revision herein provided for shall be completed and the books delivered to the secretary of state, the governor shall issue a proclamation setting forth the fact and thirty days thereafter said Revised Codes shall be in full force and effect and be received as evidence of the laws of this state in all courts thereof.

§ 6. SECRETARY SHALL HAVE PERSONAL CHARGE.] The secretary of state shall procure and have personal charge of the printing and binding and see to it, that only the best quality of paper and material is used and the best workmanship procured.

§ 7. LIMITATION OF COST TO STATE.] The entire cost to the state for the revision herein authorized including all extra help required by the secretary of state, indexing, proof reading, printing and binding, shall not exceed the sum of \$3.00 per volume for 2,000 copies; provided that when the copy of said revision is ready for the printer, the secretary of state finds that it is possible to secure for the state 2,500 copies of said Revised Codes at a cost not exceeding \$2.75 per volume, then the secretary may secure that number.

§ 8. COPIES FIVE DOLLARS PER VOLUME.] After receiving sufficient number of said Revised Codes to supply the officers entitled thereto, including the members of the Sixth legislative assembly, and the public libraries, with which the state may have established an interchange of books, he shall keep for sale the remainder for the benefit of the state at \$5.00 per volume.

§ 9. VOUCHERS.] All vouchers for the payment of services to be performed under the provision of this act shall be certified to according to law; the state auditor shall draw his warrant on the general fund for the amounts found due; provided the appropriation of fifteen thousand dollars per annum, hereby appropriated for public printing shall cover the cost of printing said codes.

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

§ 11. EMERGENCY.] Whereas, an emergency exists in that the appropriation for public printing is exhausted and there is no provision to pay for the work under contract, and whereas, the supply of Revised Codes is exhausted and no provision or appropriation has been made for a revised edition thereof, and it will be necessary to begin the work contemplated in this act prior to July 1, 1899; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved February 21, 1899.

CHAPTER 124.

[H. B. 74]

PRINTING OF SESSION LAWS.

AN ACT to Amend Section 60 of the Revised Codes of 1895, Relating to Printing of Session Laws.

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

§ 1. AMENDMENT.] Section 60 of the Revised Codes of 1895 is hereby amended to read as follows:

§ 60. JOURNALS AND LAWS, NUMBER PRINTED.] There shall be printed one hundred fifty copies of each journal for the daily use of the legislative assembly and three hundred copies of the bound edition which shall be in half binding; provided, that the legislative assembly may by resolution increase such number; two thousand copies of the Session Laws and joint resolutions shall be printed in one volume and bound in accordance with the provisions of this article.

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

§ 3. EMERGENCY.] Whereas, an emergency exists in that the number of copies of laws as provided by law is not sufficient to meet the demands of the state; therefore, this act shall take effect from and after its passage and approval.

Approved March 8, 1899.

CHAPTER 125.

[H. B. 190.]

RELATING TO PRINTING.

AN ACT to Amend Section 1807 of the Revised Codes of 1895, Relating to Printing.

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

§ 1. AMENDMENT.] Section 1807 of the Revised Codes of 1895 is hereby amended to read as follows:

§ 1807. All state, county, and other public printing, book binding and blank book manufacturing shall be done only by established printing and publishing houses in this state, which have been conducting a printing and publishing business in this state not less than four months. Where practicable all county printing shall be done in the county ordering the same, and no bid or tender for advertising or furnishing any printed matter, blanks, blank books, or other printed matter shall be accepted or considered from any person, firm or corporation not complying with and fulfilling the requirements of this section. Any violation of the provisions of this section on the part of any public official shall constitute a misdemeanor.

§ 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 the present law provides no penalty for violation of the statutes authorizing and requiring that all public printing shall be done in the state; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 9, 1899.

PUBLIC WAREHOUSES.

CHAPTER 126.

[H. B. 40.]

DEFINES PUBLIC WAREHOUSES.

AN ACT to Amend Section 1786 of Article 25, Chapter 20, of the Political Code of the State of North Dakota, which Defines Public Warehouses.

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

§ 1. AMENDMENT.] That section 1786 of article 25 of chapter 20 of the political code of North Dakota, be amended so as to read as follows:

§ 1786. PUBLIC WAREHOUSES DEFINED.] All buildings, elevators, warehouses or grist mills, except grist mills doing only a custom or exchange business, in this state, erected and operated, or which may hereafter be erected and operated by any person, association, co-partnership, corporation or trust, for the purpose of buying, selling, storing, grinding, shipping or handling grain for profit, are declared public warehouses, and the person, association, co-partnership or corporation owning or operating such buildings, elevators, warehouses or grist mills, except grist mills doing only a custom or exchange business, which are now or may hereafter be located or doing business within this state, whether such owners or operators reside within this state or not, are public warehousemen within the meaning of this article, and none of the provisions of this article shall be construed so as to permit discrimination with reference to the buying, grinding, receiving and handling grain of standard grades, or in regard to the persons offering such grain for sale, storage and handling at such public warehouses, or to be ground into flour, while the same are in operation.

Approved February 21, 1899.

RAILROADS.

CHAPTER 127.

[H. B. 80.]

STEALING RIDES UPON CARS.

AN ACT to Suppress and Punish Trespassing and Stealing Rides Upon Cars, Engines and Trains, and Authorizing Trainmen to Arrest and Prosecute Offenders Against This Act.

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

§ 1. UNLAWFUL TO STEAL RIDES.] It shall be, and is hereby declared unlawful for any person to enter upon, ride upon, or secure passage upon a railroad car or engine of any description other than a car commonly used exclusively for the carriage of passengers, with intent thereby to obtain a ride without payment therefor or fraudulently obtain carriage upon any such engine or car.

§ 2. RAILWAY EMPLOYEES EXCEPTED.] It shall be, and is hereby declared unlawful for any person, excepting railway employes in the performance of their duty, to take passage or ride upon, or enter for the purpose of taking passage or riding upon the trucks, rods, brakebeams or any part of any car, locomotive engine or tender, not ordinarily and customarily used or intended for the resting place of a person riding upon and operating the same.

§ 3. FINE AND IMPRISONMENT.] Any person violating any of the provisions of this act shall be punished by imprisonment in the county jail for not less than ten days nor more than thirty days at hard labor, or by a fine of not less than ten dollars nor more than seventy-five dollars.

§ 4. EMPLOYEES MADE PEACE OFFICERS.] All conductors, engineers, brakemen and other persons engaged or employed in the operation of cars and trains upon a railroad, are hereby constituted peace officers for the one purpose of enforcing the provisions of this act: and all such persons are hereby given full authority, when so engaged or employed, to arrest any person violating any of the provisions of this act.

§ 5. MAY DELIVER PRISONERS TO SHERIFF.] Every person arrested by a conductor, brakeman or other person exercising authority conferred by this act, must be thereafter proceeded with in all respects as is or may be required by the law in cases of arrests made by other peace officers of the state, except that any person hereby authorized to make arrests under this act, may cause the

person so arrested by him to be delivered to any sheriff or other peace officer within the state to be dealt with as provided by law; and the person so arrested may be taken before any magistrate of the county where the offense is committed.

§ 6. HOW CONSTRUED.] Nothing in this act contained shall be construed to restrict, in any way, any right, authority or privilege conferred by law, upon any other peace officer of the state within his lawful jurisdiction.

§ 7. NO FEES ALLOWED.] No person authorized by the provisions of this act to make arrests, except regular peace officers of the state, shall receive or be allowed any fees or expenses for so doing.

§ 8. EMERGENCY.] Whereas, there is no law in force on this subject, therefore, an emergency exists; and this act shall be in force and effect from and after its passage and approval.

Approved February 27, 1899.

CHAPTER 128.

[H. B. 150.]

BUILDING OF PLATFORMS.

AN ACT to Amend Section 3062 of the Revised Codes of 1895, Relating to the Building of Platforms by Railroad Companies for the Transfer of Live Stock, Grain and Other Commodities from Wagons or Otherwise to Cars, Prescribing the Duties of the Railroad Commissioners in Regard Thereto and the Notice of the Necessity of Such Platforms to be Served Upon Railroad Companies Together with the Manner of Making Service of Notices or Orders of Said Commissioners.

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

§ 1. AMENDMENT.] That section 3062 of the Revised Codes of 1895 be and the same are hereby amended to read as follows:

§ 3062. RAILROADS TO BUILD PLATFORMS.] Every railroad company doing business in this state shall within sixty days after notice from the commissioners of railroads erect 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 or siding designated in such notice; such platforms to be erected so as not to endanger life and property. If any railroad company after receiving notice as provided for in this section shall fail, refuse or neglect to erect platforms as required by this and the following section within the required sixty days the commissioners of railroads are authorized and empowered and it is made their duty to notify such railroad company to appear before them at a certain time and place and show cause, if any there is, why such commissioners should not issue an order requiring such railroad company to

comply with the requirements of this section. The commissioners of railroads shall have power after such hearing to issue an order upon such railroad company commanding it to erect such platforms, if the commissioners shall upon such examination and hearing deem such platform necessary.

Any notice required to be served upon any railroad company to carry out any of the provisions of this section or similar provisions relating to the enlarging of such platforms may be served upon any agent of said company within the State of North Dakota.

§ 2. EMERGENCY.] Whereas, an emergency exists in that the procedure required to put in operation the provisions of the foregoing section would consume such time as to render the provisions of said section unavailable for the season of shipping grain of 1899; therefore, this law shall be in force and effect on and after its passage and approval.

Approved March 8, 1899.

CHAPTER 129.

[H. B. 42.]

LIABILITY OF RAILROADS.

AN ACT Fixing the Liability of Railroad Companies and Corporations Owning and Operating a Railroad for Injuries Sustained by its Employes from the Negligent Acts of Co-employes.

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

§ 1. LIABILITY FOR DAMAGES.] Every railroad corporation owning or operating a railroad in this state shall be liable for all damages sustained by any agent or servant thereof while engaged in switching or in the operation of trains by reason of the negligence of any other agent or servant thereof, without contributory negligence on his part when sustained within this state, and no contract, rule or regulation between such corporation and any agent or servant shall impair or diminish such liability. In actions brought under the provisions of this act, if the jury find for the plaintiff they shall specify in their verdict the name or names of the employe or employes guilty of the negligent act complained of.

Provided, that nothing in this act shall be so construed as to render any railroad company liable for damages sustained by any employe, agent or servant while engaged in the construction of a new road, or any part thereof, not open to public travel or use.

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

§ 3. EMERGENCY.] Whereas, an emergency exists in that there is no law in this state fixing the liability of railroad companies or corporations owning and operating a railroad for injuries caused

to employes thereof by the negligent acts of other employes thereof; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 6, 1899.

RAILROAD COMMISSIONERS.

CHAPTER 130.

[H. B. 177.]

MAINTAINING A "Y."

AN ACT to Amend Section 3067 of the Revised Codes of 1895, Providing for the Constructing and Maintaining of a Y and Other Tracks to Connect Railroad Lines, Defining the Duties of Railroad Commissioners in Relation Thereto and Prescribing the Manner of Enforcing the Orders of Such Commissioners by Proper Courts.

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

§ 1. AMENDMENT.] That section 3067 of the Revised Codes of North Dakota be amended and re-enacted so as to read as follows:

§ 3067. In all cases where any line of railroad shall cross or intersect any other line of railroad in this state on the same grade, 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, when deemed necessary by the board of railroad commissioners, suitable and sufficient facilities, such as building Y or other tracks and connections for transferring cars and traffic of all kinds, and classes or cars from one such line of railroad to another, and to maintain the same and afford equal and reasonable facilities for the interchange of cars and traffic between the respective lines, the expense of constructing and maintaining such Y or track to be borne equally by each such railroad companies, or in such proportion as they may agree upon, but in case either or both of said companies fail, neglect or refuse to provide such facilities after notice as provided in section 3068, it shall be the duty of the board of railroad commissioners in the name of the State of North Dakota to commence an action in any court of competent jurisdiction to compel such company or companies to provide such facilities; which action shall be commenced and prosecuted for the enforcement of the order and notice of said commissioners in accordance with the provisions of chapter 115 of the laws passed at the Fifth legislative assembly of the State of North Dakota, relating to the enforcement of the orders of such commissioners.

Approved March 8, 1899.

CHAPTER 131.

[H. B. 176.]

PROVIDING FOR EXPENSES.

AN ACT to Provide for the Payment of Expenses Incurred in Litigation Arising for the Enforcement of Orders of the Board of Commissioners of Railroads or Other Litigation in Charge of the Attorney General.

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

§ 1. COSTS AND EXPENSES.] That all costs and expenses actually incurred by or upon the order of the attorney general incident to any litigation arising in reference to the enforcement of orders of the board of commissioners of railroads or other litigation commenced by or in charge of said attorney general shall be paid out of the general fund of the state upon vouchers to be approved by the attorney general, governor and state auditor.

§ 2. EMERGENCY.] Whereas, an emergency exists in that there is no well settled rule regarding the payment of such costs and expenses this act shall take effect immediately upon its passage and approval.

Approved March 9, 1899.

REGISTER OF DEEDS.

CHAPTER 132.

[H. B. 88.]

PROVIDING FOR SALARY.

AN ACT to Amend Section 2075 of the Revised Codes of the State of North Dakota, Providing for the Salary of Register of Deeds, and to Repeal Section 2077 of said Revised Codes.

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

§ 1. AMENDMENT.] That section 2075 of the Revised Codes of the State of North Dakota be and the same is hereby amended to read as follows:

§ 2075. SALARY, HOW DETERMINED.] As compensation for his services the register of deeds 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, five hundred dollars; over five hundred thousand dollars and under one million dollars, seven hundred and fifty dollars; over one million dollars and under one million five hundred thousand dollars, one thousand dollars; over one million five hundred thousand dollars and under two million dollars, twelve hundred dollars; over two million dollars and under three million dollars, fourteen hundred dollars; over three million dollars and under five million dollars, sixteen hundred dollars; over five million dollars and under eight million dollars, seventeen hundred dollars; over eight million dollars and under nine million dollars, eighteen hundred dollars; and in all counties having a valuation over nine million dollars, two thousand dollars and no more for his personal services.

§ 2. REPEAL.] Section 2077 of the Revised Codes of North Dakota and all other acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 6, 1899.

REGISTRATION OF VOTERS.

CHAPTER 133.

[S. B. 156.]

RELATING TO ELECTIONS.

AN ACT to Amend Sections 607 and 621 of Article 15, Chapter 8, of the Revised Codes of 1895, Relating to Elections.

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

§ 1. AMENDMENT.] That sections 607 and 621 of the Revised Codes of 1895 be amended to read as follows:

§ 607. REGISTRATION OF VOTERS. WHEN BOARD SHALL MEET.] The persons authorized by law or appointed pursuant to any village or city ordinance to act as judges of election in any village, city, ward or other election precinct in this state shall, together with the inspector of election for such precinct, constitute a board of registry for their respective precincts, and they shall meet on Tuesday, two weeks preceding any general election, or annual city election, at 9 o'clock a. m., and make a list, as hereinafter prescribed, of all persons qualified to vote at the ensuing election in such election precinct, which list when completed shall constitute and be known as the registry of electors of such precinct.

§ 621. WHAT CITIES GOVERNED BY THIS ARTICLE.] All cities and villages containing eight hundred or more inhabitants shall be subject to the provisions of this article. To determine the number of inhabitants the number of votes cast at the last preceding general election shall be multiplied by five.

§ 2. EMERGENCY.] Whereas, there is now no law providing for registration of voters at annual city elections, an emergency exists; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 8, 1899.

REVENUE AND TAXATION.

CHAPTER 134.

[S. B. 41.]

PERSONAL PROPERTY TAX.

AN ACT Amending Sections 60 and 71 of Chapter 126 of the Session Laws of 1897, Relating to Revenue and Taxation.

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

§ 1. AMENDMENT.] That sections 60 and 71 of chapter 126 of the Laws of 1897 be and the same are hereby amended to read as follows:

§ 60. DELINQUENT PERSONAL PROPERTY TAX. WHEN DUE. PENALTY. DISTRESS.] All personal property taxes shall become due on the first day of November in each and every year for which the tax is levied, and become delinquent on the first day of February next after they become due, and thereupon a penalty of five per cent shall attach and be charged upon all such delinquent taxes, and thenceforth there shall be charged interest at the rate of one per cent per month on the original amount of the tax until the same is paid. After said personal property taxes become delinquent the county treasurer shall make out a list of such taxes in the same order as it appears in the tax list and on or before the 15th day of September in each year deliver such list of unpaid delinquent personal property taxes to the sheriff of his county, who shall notify by mail such delinquents that taxes have been placed in his hand for collection and unless the same are paid within fifteen days he shall immediately proceed to collect all such delinquent personal property taxes, and if such taxes are not paid on demand he shall distrain sufficient goods and chattels belonging to the person charged with such taxes, if found within the county, to pay the same, with the said penalty of five per cent and all accruing interest and costs, and shall immediately proceed to advertise the same in three public places in the town or district where such property is taken, and in the official newspaper, if there is one in the county, stating the time when and the place where such property will be sold, which place of sale shall be at the residence of the person whose goods have been distrained, and no personal property shall be exempt from such distraint and sale, and if the taxes for which such property is distrained, and the costs which accrue thereon, are not paid before the day appointed for such sale, which shall not be less than ten days after the taking

of such property, such sheriff or his deputy shall proceed to sell such property at public vendue, or so much thereof as will be sufficient to pay said taxes, interest, penalty and costs of such distress and sale, and on or before the 15th day of December next, after receiving the list herein provided, from the county treasurer, said sheriff or his deputy shall make out in duplicate and deliver the original to the county treasurer of his county, a statement of the taxes collected, giving the names of each person or company from whom collected in the same order as they appear on the list received from the county treasurer, and at the same time turn over to said treasurer the money collected belonging to the several funds for which it was levied, including the penalty and interest, and the county treasurer shall issue receipts for the same, as provided in section 57 of this act. The duplicate of the statement made to the treasurer shall be filed with the county auditor with the list of uncollected taxes as provided in section 61 of this act. The county treasurer shall, thirty days before said taxes become delinquent, give notice of the fact, stating that the same will be delivered to the sheriff for collection, such notice to be mailed to each person, firm or corporation interested, in the month of December; Provided, that in case any person having only personal property assessed, and upon which the taxes are unpaid, shall, in the opinion of the treasurer, be about to move out of the county, it shall be the duty of the treasurer to collect such taxes at any time after the tax lists shall have been placed in his hands.

§ 71. WHEN REAL ESTATE TAXES BECOME DUE AND DELINQUENT. PENALTY AND INTEREST.] All real estate taxes shall become due on the first day of November in each and every year for which the tax is levied, and become delinquent on the first day of February following, and if unpaid there shall attach thereto a penalty of three per cent as soon as the same becomes delinquent; also, on the first day of March following an additional penalty of three per cent; on the first day of June following an additional penalty of three per cent, and on the first day of November following a further penalty of five per cent on the original tax, and the same shall be charged and collected accordingly, without being especially entered or noted on the tax list.

Approved March 2, 1899.

CHAPTER 135.

[S. B. 5.]

AUDITOR'S CERTIFICATE REQUIRED.

AN ACT to Amend Section 95 of Chapter 126 of the Laws of 1897, Being an Act Entitled "Revenue and Taxation.

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

§ 1. AMENDMENT.] That section 95 of chapter 126 of the Laws of 1897 be amended so as to read as follows:

§ 95. DEED NOT TO BE RECORDED WITHOUT AUDITOR'S CERTIFICATE OF TAXES PAID, ETC.] When any deed is presented to the county auditor for transfer he shall ascertain from the books and records in his office if there be delinquent taxes due on the lands described therein, or if it has been sold for taxes; and if there are delinquent taxes due he shall certify to the same, and when the receipt of the county treasurer shall be produced for the said delinquent taxes and for any other delinquent taxes that may be in the hands of the county treasurer for collection, the county auditor shall enter on every deed of real property so transferred over his official signature "taxes paid and transfer entered;" or, if the land described has been sold for taxes, "paid by sale of the land described within;" 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 \$100, nor not exceeding \$1,000, and he shall be liable to the grantee of any instrument so recorded for the amount of any damages sustained; provided, that 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 change in the record title and final decree 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 25 cents for each certificate from the person or persons presenting the same for certification, and shall cover the same into the county treasury for the credit of the county general fund; provided, in counties in which the auditor is not paid the maximum salary allowed by law, said auditor may retain such fee as compensation for making such certificate.

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

§ 3. EMERGENCY.] Whereas, an emergency exists in that there are numerous decrees by county courts and deeds correcting titles that should be recorded at once; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved February 10, 1899.

CHAPTER 136.

[S. B. 39.]

REDEMPTION.

AN ACT to Amend Section 82 of Chapter 126 of the Laws of 1897, Relating to Revenue and Taxation.

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

§ 1. AMENDMENT.] That section 82 of chapter 126 of the Laws of 1897 of the State of North Dakota is hereby amended to read as follows:

§ 82. REDEMPTION.] If at said sale any piece or parcel of land shall be sold to a purchaser the same may be redeemed at any time within three years from the date of sale by any person or corporation having an interest therein who shall pay into the treasury of the county for the credit of the person thereto entitled, the amount paid by the purchaser at the time of sale, with a penalty of five per cent, together with all amounts of subsequent taxes, penalties and interest paid by him up to the date of redemption, and interest at the rate of two per cent per month. In case any piece or parcel of land was not sold for want of bidders, then any person or corporation having an interest therein shall have the same right of redemption from the county, and on the same terms as from a purchaser at a tax sale.

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

Approved February 24, 1899.

CHAPTER 137.

[H. B. 205.]

CORRECTED ASSESSMENT LISTS.

AN ACT Amending Section 46 of Chapter 126 of the Laws of 1897, Relating to Revenue and Taxation.

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

§ 1. AMENDMENT.] That section 46 of chapter 126 of the Laws of 1897 be amended to read as follows:

§ 46. CORRECTED LISTS. ABSTRACTS FOR STATE AUDITOR.] The county auditor shall calculate the changes of the assessment lists determined by the county board of equalization, and make corrections accordingly. Having made such corrections, he shall make duplicate abstracts of the real and personal property lists, one copy of which he shall file in his office and one copy he shall forward to the auditor of the state, on or before the last day of July following each county equalization.

Approved March 9, 1899.

CHAPTER 138.

[H. B. 133.]

ASSESSORS' DISTRICTS.

AN ACT to Amend Section 32 of Chapter 126, Session Laws of 1897, Relating to Revenue and Taxation.

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

§ 1. AMENDMENT.] That section 32 of chapter 126 of the Session Laws of 1897 is hereby amended to read as follows:

§ 32. All counties or parts of counties in this state not organized into civil townships shall be divided into assessors districts which shall be the same as the commissioners districts of said county excluding organized civil townships, and the assessor thereof shall be elected at the same time that state officers are and his term of office shall be two years from and after the first day of January following, but the assessors for said districts for the years 1897 and 1898 shall be appointed by the board of county commissioners of their respective counties and shall hold office until their successors are duly elected and qualified, except in those districts in which assessors were elected at the general election of 1896, the election of which assessors is hereby legalized and confirmed. In a case of vacancy in the office of assessor in any organized civil township, such vacancy shall be filled by the board of county commissioners of the proper county. Each organized civil township in this state shall constitute an assessor district, and there shall be one assessor elected for each one of said districts annually at the time that other town officers are elected; provided, any vacancy in township assessor may be filled by appointment by the board of supervisors of said township where vacancy exists; provided, that cities organized under the general laws of this state shall not be included in the district provided for in this section, but assessors of such cities shall act with the board of county assessors in any of their meetings. All assessors of this state shall receive three dollars per day and no more for the time actually employed in making and completing said assessment, but shall not receive more than sixty dollars for assess-

ing any one civil township, nor more than one hundred eighty dollars be paid for assessing any one assessor district other than civil township; provided, further, that the person shall not be eligible to be assessor unless he is a voter and owner of real estate in the district or township for which he is to be assessor.

§ 2. EMERGENCY.] Whereas, the assessment under the present law will be made prior to July 1st, an emergency exists; therefore, this act shall take effect from and after its passage and approval.

Approved March 8, 1899.

CHAPTER 139.

[H. B. 135.]

BIDDING IN OF LAND:

AN ACT Providing for the Manner of the Disposition of Lands Acquired by the State or the Several Counties of the State Under the Provisions of Chapter 67, Laws of 1897, or Other Revenue Laws.

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

§ 1. All lands which may have been or may be bid in for the state or any county in the state by virtue of the provisions of chapter 67, Laws of 1897, or other revenue laws, may be disposed of by the county auditor at public or private sale as the county commissioners may direct subject to such rules and restrictions as they may prescribe.

Approved March 2, 1899.

ROADS.

CHAPTER 140.

[S. B. 138.]

AN ACT to Authorize the Purchase of Tools and Machinery for Making Roads, in Certain Cases, and to Prescribe the Manner of Payment Therefor, and the Use and Care of Same.

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

§ 1. BOARD AUTHORIZED TO PURCHASE TOOLS.] The township board of any township is authorized to purchase for the use of the township, upon credit or otherwise, any tools, road machines or road graders, or either of them, or one or more of either of them for the use of the township, or the use of the overseer of the districts therein,

as in this act provided. Such implements when purchased, shall be paid for in not to exceed five annual payments out of the highway tax of the township, according to the contract therefor, and the chairman of the town board shall issue orders for the payment of the same, and such orders shall be attested by and registered with the township clerk, and the township clerk shall certify to the supervisors of such township, at the time of assessing the highway tax for such township, the sum necessary to pay such orders, and this sum shall be added to the other taxes to be raised for highway purposes, and when collected shall be applied to the payment of such orders and to no other purpose until all such orders are paid. The township board shall have the custody and control of all implements so purchased.

§ 2. PURCHASE ROAD MACHINE.] In any township in which the whole or any part of the highway tax is paid in labor, the chairman of the township board thereof shall, upon being petitioned in writing by a majority of the freeholders of the town, contract for and purchase upon credit or otherwise, a road machine, road grader or wheeled scrapers or one or more of either of them, for the use of the township, which implement shall be used, owned and cared for by the township. Such implements shall be paid for out of the highway tax of the township, and may be paid for in not to exceed five annual installments. A copy of the note or contract issued upon such purchase shall be filed in the office of the township clerk, and it shall be the duty of such township clerk to present a statement of the sum due thereon to the township board at each regular meeting held thereafter for the audit of the township claims and charges, and the township board shall audit the same. Not more than one-half of the highway tax of the township shall be applied to the payment therefor in any one year. The portion of such tax so applied, shall be required to be paid in money, and shall be assessed and levied upon property of the township, and collected in the same manner as other township charges are assessed, levied and collected, except that the amount thereof shall be put into a separate column on the tax roll, and the township board shall cause the same so certified to by the township clerk to be levied upon the taxable property of the township.

§ 3. OVERSEER RESPONSIBLE.] Each road overseer of highways shall be personally responsible for the proper use and care of such implements while in his charge, or in use in his district, and any overseer of highways, or other person who shall through negligence or otherwise wilfully injure or damage such implements or permit them to be injured, shall be liable for such damage to such township, in an action to be brought by the chairman of the township board before any justice of the peace in said town or any adjoining town.

§ 4. STORAGE OF IMPLEMENTS.] It shall be the duty of the township board of each township to provide suitable places for the stor-

age and proper housing of all tools, implements and machinery owned by the township, and to cause such tools, implements and machinery to be stored and house therein when not in use.

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

§ 6. EMERGENCY.] An emergency exists in that there is no provision in the law authorizing the purchase and care for road tools, and it is necessary in a number of towns that tools be procured next spring; therefore, the provisions of this act shall be in effect from and after its passage and approval.

Approved March 4, 1899.

CHAPTER 141.

[H. B. 148.]

ROAD TAX AND ROAD WORK.

AN ACT to Amend Section 2669 of the Revised Codes of North Dakota, 1895, Relating to Township Road Tax and Road Work.

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

§ 1. AMENDMENT.] That section 2669 of the Revised Codes of 1895 be amended to read as follows:

§ 2669. PLANS AND SPECIFICATIONS.] The several township boards whenever in their judgment it is for the best interest of the township may at the next annual meeting cause a vote to be taken by a ballot on which shall be written or printed the words "for contract system," "against contract system," and if a majority of the votes cast are in favor of the contract system then the township board shall at the next meeting succeeding the annual meeting advertise in one of the county papers for bids for two successive weeks for the improvement and repairing of highways and bridges in its township in the following manner:

1. The board shall furnish plans and specifications for all work and improvements to be done and performed in the several townships which shall be filed in the office of the township clerk.

2. It shall at the time of advertising for bids give at least ten days notice to be posted in conspicuous places in said township that bids will be received at a time and place mentioned in said notice, and said contracts shall be let to the lowest bidder in accordance with such plans and specifications as are furnished by said board, and the said board shall require upon the letting of such contract or contracts a good and sufficient bond for the faithful performance of the work to be done and performed in said contract, and said board shall have authority to reject any and all bids. Whenever

the "contract system" has been adopted, as provided herein, township road taxes shall be paid in money only.

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

§ 3. EMERGENCY.] Whereas, an emergency exists, that there is no law for the payment of township road taxes except by labor when the contract system is adopted, this act shall be in force on and after its passage and approval.

Approved March 6, 1899.

SABBATH BREAKING.

CHAPTER 142.

[H. B. 107.]

PUNISHMENT FOR SABBATH BREAKING.

AN ACT to Amend Section 6847 of Chapter 4 of the Penal Code of the State of North Dakota, Relating to the Punishment of Sabbath Breaking.

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

§ 1. AMENDMENT.] Section 6847 of chapter 4 of the penal code of the State of North Dakota is hereby amended to read as follows:

§ 6847. SABBATH BREAKING. HOW PUNISHED.] Every person guilty of Sabbath breaking is punishable by a fine of not less than one dollar nor more than ten dollars, at the discretion of the court, for each offense.

Approved March 8, 1899.

SCHOOL CORPORATIONS.

CHAPTER 143.

[H. B. 26.]

DISTRICT SCHOOL CORPORATIONS.

AN ACT to Amend Section 660, Revised Codes of North Dakota, 1895.
Relating to What Territory May be Organized into District School
Corporations.

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

§ 1. AMENDMENT.] That section 660, Revised Codes, is hereby amended to read as follows:

§ 660. WHAT TERRITORY MAY BE ORGANIZED INTO DISTRICT SCHOOL CORPORATIONS.] The county commissioners of each county, in which there is territory not organized for school purposes at the taking effect of this act, may organize into a district school corporation any territory not, at the taking effect of this act, already organized into a civil township or a school township, upon being petitioned to do so by one-third of the residents of such territory, having the care or custody of any child of school age; provided such territory shall consist of not less than one congressional township, and having not less than ten children of school age residing therein. The county commissioners of every such county, with the advice and consent of the county superintendent, may re-arrange the boundaries in any school corporation whose territory is not included within a civil township, when petitioned to do so by a majority of the voters residing within such school corporation, whose boundaries will be affected thereby, subject to the same restrictions and conditions as to extent of territory and number of resident children of school age as in the organization of a school corporation from territory not included in a civil township. In the formation of school corporations and the re-arrangement of their boundaries as provided for in this section, the boundary lines of congressional townships shall be followed as far as possible as school corporation lines.

Provided, that in case any school township, containing a city of eight hundred inhabitants or more, and which is not organized as an independent school district, said township outside of said city, may on petition to the county superintendent of schools, a petition of at least two-thirds of the legal voters of such township outside the limits of such city, organize a school township, and when such peti-

tion is filed, the county superintendent of schools shall proceed to call a first election as provided in article 4 of this chapter.

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

§ 3. EMERGENCY.] Whereas, an emergency exists by reason of the fact that there are children who are unable at this time to receive the benefits of our public school system, this act shall take effect on and after its passage.

SCHOOL DISTRICTS.

CHAPTER 144.

[S. B. 142.]

FORMATION OF DISTRICTS.

AN ACT to Legalize Irregularities in the Formation of School Districts and to Make Valid the Acts of the Officials Thereof.

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

§ 1. LEGALIZING IRREGULARITIES.] That all school districts, whether duly and legally organized under the provisions of statutes or not, which for the eight years last past have had a defacto organization, are hereby declared to be legally organized and are authorized to exercise all the functions of school districts which have been duly and legally organized as provided by statute, with the boundaries which they may have at the time of the going into effect of this act, and all contracts or obligations of said districts, and the acts of the officials thereof, are hereby ratified and confirmed in so far as to give them the same validity which they would have had if said districts had been legally organized.

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

§ 3. EMERGENCY.] Whereas, an emergency exists in the fact that many school districts were irregularly organized, having unrecorded boundaries, with obligations of indebtedness questionable; therefore this act shall take effect and be in force from and after its passage and approval.

SCHOOL DISTRICT SINKING FUND.

CHAPTER 145.

[H. B. 86.]

RELATING TO SINKING FUND.

AN ACT to Amend Section 779, Revised Codes, 1895, Relating to Sinking Fund and Interest Tax for School Districts where Bonds Have Been Issued.

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

§ 1. AMENDMENT.] That section 779 of the Revised Codes of North Dakota be and the same is hereby amended so as to read as follows:

§ 779. SINKING FUND AND INTEREST TAX.] In addition to the amount that may already be assessed under existing laws, there shall be levied upon the taxable property of the school district so issuing bonds at or before their issuance, and collected as other taxes are collected, a sum sufficient, not exceeding five mills on the dollar of assessed valuation of such districts, to pay interest upon such bonded indebtedness, and after five years in like manner a further tax not exceeding two mills on the dollar for a sinking fund to be used in payment of such bonds when they become due and for no other purpose, except that whenever there are sufficient funds on hand, belonging to such sinking fund, the school board may, in its discretion, purchase any of the outstanding bonds at their market value and pay for the same out of such sinking fund; provided, that the school district board may designate one or more national or state banks in its county for a depository for such sinking fund, and in such case the school board shall advertise for at least two weeks in some newspaper printed in the county for sealed proposals for the deposit of the sinking fund of such school district, reserving the right to reject any and all bids, and satisfying itself of the responsibility of all banks proposing to act as depositories. Before any bank shall be designated as such depository, it shall present to the school board a sealed proposal stating in writing what rate of interest will be paid for the deposit of such sinking fund, and shall submit to the board for its approval, a bond payable to the school district conditioned for the safe keeping and repayment of any funds deposited in such bank, which bond shall be signed by not less than three freeholders of the county as sureties, such bond to be in the sum required by the school board, but in no case less

than double the probable amount of funds to be deposited in such bank. The approval of such bond shall be endorsed thereon by the board and deposited with the county auditor, and any bank whose bond shall have been so approved shall thereupon be designated by the school board as a depository for the sinking fund, and shall continue as such, until such time as the board shall re-advertise for bids as aforesaid, or until such funds are needed for the payment or purchase of bonds as provided in this section. When the sinking fund of any school district is deposited by the school treasurer in the name of the school district in such depository, such treasurer and his sureties shall be exempt from all liability thereon by reason of loss of any such funds from the failure, bankruptcy or any other act of any such bank, to the extent only of such funds in the hands of such bank or banks at the time of such failure or bankruptcy. Such depository shall furnish to the school district clerk prior to the fifth day of July of each year, a verified statement of the school district's account with such depository for the year ending June 30th, which statement shall show a credit to such deposit account of all sums of interest accruing on the sinking fund deposited.

Approved February 18, 1899.

SERVICES OF SIRES.

CHAPTER 146.

[H. B. 8.]

LIENS FOR SERVICES OF SIRES.

AN ACT Relating to Liens for the Services of Sires.

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

§ 1. FILING STATEMENT OF PEDIGREE PREREQUISITE.] Every owner of a sire charging a service fee, in order to have a lien for service upon the offspring of any such sire under the provisions of this chapter, shall file a statement, verified by oath, to the best of his knowledge and belief, with the commissioner of agriculture and labor, giving the name, age, description and pedigree or breeding of such sire, so far as known, as well as the terms and conditions upon which he is advertised for service.

§ 2 CERTIFICATE OF COMMISSIONER OF AGRICULTURE. FILING AND POSTING.] The commissioner of agriculture and labor, upon receipt of the statement specified in the last section, shall issue a certificate to the owner thereof, who shall file a copy of such certi-

ificate with the register of deeds of the county or counties in which such sire shall stand for service, such copies shall also be posted conspicuously in all places where such sire shall stand for service, which certificate shall state the name, age, description, pedigree and ownership of such sire, the terms and conditions upon which the sire is advertised for service. Such certificates shall be procured and filed prior to the service of such sire, and all certificates procured and posted according to this section shall be operative as long as the terms and conditions remain the same. The original certificate shall follow the sire in all changes of ownership and all transfers shall be recorded in the office of the commissioner of agriculture and labor and a bill of sale filed with the register of deeds as is provided for the filing of the original certificates, and that the provisions of this chapter so far as relates to the filing of the statement aforesaid have been complied with, and the commissioner of agriculture and labor shall have the power to charge one dollar for each certificate and recording thereof, and twenty-five cents for all copies of certificates, and twenty-five cents for filing certificate with register of deeds, and twenty-five cents for recording each transfer.

§ 3. PROCEDURE TO OBTAIN LIEN.] The owner of any sire receiving such certificate shall have a lien upon the offspring of such sire and upon the female served, upon filing at any time within eight months after the service, in the office of register of deeds of the county in which such female was kept at the time of service, a statement of the account thereof together with a description of the female served. Such lien shall exist for a period of three years from the date of filing of the statement and shall have priority over all other liens and incumbrances upon the offspring and the female served.

§ 4. FORECLOSURE.] After the expiration of nine months from the filing of the lien, or at any time after an attempt shall be made to dispose of the female, or remove her from the county, the lien may be foreclosed by a sale of the property covered thereby, upon the notice and in the manner provided for the foreclosure of mortgages upon personal property and the cost and fees for such foreclosure shall be the same as are provided in section 5892 of the code of civil procedure.

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

§ 6. EMERGENCY.] Whereas, an emergency exists in that the existing laws on the subject matter of this act are inadequate to meet the requirements of this act; therefore, this act shall take effect and be in force from and after its passage and approval.

SHEEP INSPECTORS.

CHAPTER 147.

[H. B. 134.]

APPOINTMENT OF INSPECTORS.

AN ACT to Amend Section 1609 of the Revised Codes of North Dakota,
Relating to Appointment of Sheep Inspectors.

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

§ 1. AMENDMENT.] That section 1609 of the Revised Codes of the State of North Dakota is hereby amended to read as follows:

§ 1609. It shall, in addition to their duties already defined by law, be the duty of all sheep inspectors, and the district veterinarian, who is hereby authorized to appoint such inspectors, in any county in his district, where the county commissioners fail to make such appointment, and he may deem such an appointment necessary, and shall require all sheep inspectors within his district to report to him in writing, at the end of each calendar month, any knowledge or information such sheep inspectors may possess relative to any diseased sheep which may be within their own or adjacent counties within the veterinarian district of which said county or adjacent counties may form a part, and the district veterinarian shall report to the chief veterinarian all the information that he obtains from the reports received from the sheep inspectors; and whenever, in the opinion of the district veterinarian, any sheep inspector within his district is incompetent, or neglects or refuses to attend in a proper manner to his duties, the district veterinarian of such district shall take charge of any diseased sheep in such county, and dip and treat them in the manner provided for in the law relating to sheep inspectors, and when such action shall become necessary he shall report the same to the chief state veterinarian, who shall give such assistance as is in his power, and in addition thereto the district veterinarian shall, when such sheep inspector is incompetent or neglects to perform his duties, remove said inspector and appoint some competent person in his place. The owner, agent or person in charge of such sheep shall be required by the district veterinarian upon his performance of duty as set forth in this section, to pay a fee of five dollars per day, together with the necessary expenses, and said fees shall be a lien upon the sheep inspected, subject to foreclosure the same as chattel mortgages. All fees or moneys collected by the district veterinarian, under the provisions of the article

shall be remitted, turned over and receipted for, the same as other funds that may pass through his hands, as prescribed by section 1599.
Approved March 9, 1899.

SOLDIERS HOME.

CHAPTER 148.

[H. B. 195.]

OUTSTANDING INDEBTEDNESS.

AN ACT to Amend Section 1 of Chapter 131 of the Session Laws of 1897, Relating to Funding the Outstanding Indebtedness of the Soldiers' Home at Lisbon, North Dakota, and Providing Funds for the Permanent Improvement of Said Home.

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

§ 1. AMENDMENT.] That section 1 of chapter 131 of the Laws passed at the Fifth legislative assembly of the State of North Dakota, be and the same is hereby amended to read as follows:

§ 1. ISSUANCE OF BONDS. RATE OF INTEREST. DENOMINATION.] The governor, state auditor and state treasurer are hereby authorized and empowered to prepare for issuance negotiable bonds of the State of North Dakota to the amount of \$20,000, for the purposes hereinafter stated. Such bonds shall be in denominations of \$500 each, payable to purchaser or bearer and payable in thirty years from date of issuance, from the interest and income fund accumulating from the sale, rental or lease of lands or from the rental or lease of said lands donated to the said soldiers' home under section 216 of the constitution of the State of North Dakota, which bonds shall bear interest at a rate not to exceed six per cent per annum, interest payable semi-annually on the first day of January and July in each year, with coupons attached for each interest payment, said coupons to be payable anywhere in the United States. Said bonds shall be issued under the great seal of the state, by the governor and treasurer and shall be attested by the secretary of state and shall be negotiated by the treasurer.

§ 2. EMERGENCY.] Whereas, an emergency exists in that the indebtedness above referred to is long past due, and no provision has been made for the payment thereof from the permanent income of said institution, and the credit of the state is being impaired by reason thereof; therefore, this act shall take effect upon its passage and approval.

Approved March 4, 1899.

STATES ATTORNEYS.

CHAPTER 149.

[S. B. 80.]

FIXING SALARY.

AN ACT Fixing the Salary of States Attorney in the Different Counties and Mode of Determining the Same.

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

§ 1. SALARY OF STATES ATTORNEY AND ASSISTANT.] As compensation for his services the states 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 six million dollars, twelve hundred dollars; over six million dollars and under seven million dollars, fifteen hundred dollars; over seven million dollars and under eight million dollars, seventeen hundred 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 states attorney shall be appointed by the states 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 valuation the salary of assistant states attorney shall be fixed by the county commissioners.

§ 2. REPEAL.] Section 2058 of the Political Code of 1895 is hereby repealed.

§ 3. EMERGENCY.] There is no just and adequate provision of law for determining the salary of states attorney and no provision for assistant states attorney's salary; therefore an emergency exists and this act shall take effect and be in force from and after its passage and approval.

Approved March 6, 1899.

STATE DEPOSITORIES.

CHAPTER 150.

[S. B. 69.]

RELATING TO STATE DEPOSITORIES.

AN ACT to Amend Section 237 of Article 4 of Chapter 4 of the Political Code, Relating to State Depositories.

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

§ 1. AMENDMENT.] That section 237 of article 4 of chapter 4 of the Political Code be and the same is hereby amended so as to read as follows:

§ 237. All the funds of the state shall be deposited by the treasurer in one or more designated national or state banks in the state on or before the first day of each month in the name of the state; such bank or banks shall be designated by the board of auditors in conjunction with the governor after advertising in one or more newspapers published in the state for at least thirty days for proposals and receiving proposals, stating what security will be given to the state for any state funds deposited, and what interest paid on monthly balances of such funds on condition that such funds with accrued interest shall be held subject to draft and payment at all times on demand; provided that the amount deposited in any bank shall not exceed the assessed value of its capital stock. Interest on the fund so deposited shall be not less than two nor more than three per cent. per annum, payable on the average daily balance. Each bank so designated shall continue to be a depository, unless revoked by the board, until board of auditors designate new depositories which shall be at a meeting to be held on the second Tuesday in January of every even numbered year, and until depositories so designated shall have qualified.

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

Approved February 28, 1899.

STATE EXAMINER.

CHAPTER 151.

[S. B. 103.]

PROVIDING FOR NECESSARY ASSISTANCE.

AN ACT to Provide Necessary Assistance in the Department of the State Examiner.

Whereas, Governor Devine in his message to this legislative assembly pointed out the necessity of assistance in the department of the state examiner; and

Whereas, There are at the present time 211 examinations required by law and 117 subject to call by the boards of county commissioners, besides the constant increase in the number of state banks; and

Whereas, There is sufficient office work in the department to keep one constantly employed; therefore,

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

§ 1. ASSISTANT EXAMINER.] The state examiner is authorized, with the approval of the governor, to appoint assistant examiners to enable him to properly conduct the affairs of his department. And there is hereby appropriated annually for salaries of such assistants the sum of fifteen hundred dollars, or so much thereof as shall be necessary, together with the necessary and actual traveling expenses incurred while in the performance of official duties.

§ 2. EMERGENCY.] An emergency exists in that it will be impossible for the state examiner to comply with the requirements of the law during the balance of this fiscal year for want of necessary assistance; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 8, 1899.

STATE FUNDS.

CHAPTER 152.

[S. B. 147.]

REGULATING PAYMENT OF STATE FUNDS.

AN ACT to Regulate the Payment to the State Treasurer of State Funds Collected by or in the Hands of County Treasurers.

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

§ 1. COUNTY TREASURERS MUST REMIT PROMPTLY.] That all funds collected by or in the hands of the treasurer of any county in this state shall be promptly remitted by such county treasurer as provided in section 326 of the Revised Codes of North Dakota without expense to the state, and at the risk of the county treasurer, for which county treasurer shall be allowed his actual expenses by the board of county commissioners.

§ 2. EMERGENCY.] There being a dispute as to the law now governing this question, an emergency exists, and this act shall take effect immediately upon its passage and approval.

Approved March 8, 1899.

SUPREME COURT.

CHAPTER 153.

[S. B. 144.]

TERMS OF SUPREME COURT.

AN ACT Fixing the Times and Places of Holding General and Special Terms of the Supreme Court of the State of North Dakota and Providing for the Expenses Incident Thereto.

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

§ 1. GENERAL TERMS, WHEN HELD.] There shall be two general terms of the Supreme Court held each year, to be known as the March and September terms and to consist of two sessions each. The first session of the March term shall be held in the City of Fargo, County of Cass, commencing on the fourth Tuesday of March of each year, and the second session shall be held in the City of Bismarck, County of Burleigh, commencing on the second Tuesday in April of each year. The first session of the September term shall be held in the City of Grand Forks, County of Grand Forks, commencing on the third Tuesday in September of each year, and the second session shall be held in the City of Bismarck, County of Burleigh, commencing on the first Tuesday in October of each year. Such sessions of the Supreme Court to be held in the City of Fargo and the City of Grand Forks shall be held in some suitable place, such place to contain suitable and convenient facilities for the safe keeping of the records of said court, all to be provided by the county commissioners of the county in which such city is located, and in case such place is not provided, without expense to the state, the judges of such court, or a majority thereof, shall adjourn such session to the City of Bismarck.

§ 2. APPEALS, MOTIONS AND HEARINGS.] All appeals, motions and hearings of all kinds, except motions for admission to the bar on certificate or by examination, shall be held in the City of Bismarck as a matter of course unless notice in writing shall be served by either side on counsel for the opposite party and filed with the clerk of the Supreme Court, at least twenty days before the opening of any general term, to the effect that such party desires his matter to be heard at the first session of the ensuing term, designating in which place and the time of such hearing, in which event the matter shall stand for hearing at the place so designated. All matters not so noticed shall stand for hearing at Bismarck.

§ 3. SPECIAL TERMS.] Whenever, from any cause, it appears to a majority of the judges of said court that the public interest demand that a special term of said court be held, the majority of said judges have authority to appoint a special term of the Supreme Court to be held at either of the places aforementioned, giving twenty days' previous notice thereof by advertisement published in a newspaper at the seat of government of the state.

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

§ 5. EMERGENCY.] Whereas, it is necessary that the terms of the Supreme Court be fixed at a date long prior to July 1st, 1899, an emergency exists; now, therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 5, 1899.

CHAPTER 154.

[S. B. 3.]

SALARY OF REPORTER.

AN ACT to Repeal Section 395, Revised Codes of North Dakota, as Amended by Chapter 138, Laws of North Dakota for the Year 1897. Relating to the Salary of Supreme Court Reporter and Providing a Compensation for the Supreme Court Reporter.

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

§ 1. SALARY OF REPORTER.] That the Supreme Court reporter, for performing the duties required of him by law, shall receive an annual salary of fifteen hundred (\$1,500) dollars, payable quarterly, and no extra compensation for proof readers or stenographic assistance shall be allowed, but the expense of such assistance shall be borne by said reporter out of his salary.

§ 2. REPEAL.] That section 395 of the Revised Codes of North Dakota, as amended by chapter 138 of the Session Laws of the Fifth legislative assembly of the State of North Dakota, held in the year 1897, be and the same is hereby repealed.

§ 3. EMERGENCY.] Whereas, an emergency exists in that the compensation heretofore provided to the Supreme Court reporter for editing, compiling, annotating, indexing, proof reading, condensing and editing the brief of counsel, and doing other work required of him by law, is insufficient and that it is necessary that volume eight of the North Dakota Reports be immediately prepared for publication and published and the compensation now provided is insufficient for the employment of proof readers for said work; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved February 28, 1899.

TAX DEEDS.

CHAPTER 155.

[S. B. 171.]

TAX DEEDS FOR DELINQUENT TAXES.

AN ACT to Provide for the Execution of Tax Deeds for Lands Sold for Delinquent Taxes Under the Provisions of Chapter 126 of the Laws of 1897, and to Prescribe the Form and to Define the Effect of all Such Deeds, and the Title Thereby Conveyed.

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

§ 1. TAX DEEDS. WHEN AND BY WHOM MADE.] At the expiration of the time for redemption of lands sold for delinquent taxes, as provided in section 82 of chapter 126 of the laws of 1897, and after the filing of the proof of notice of expiration of period for redemption, as provided in section 106 of said act and on production of the certificate of purchase, the county auditor of the county in which the sale of such lands took place, shall execute to the purchaser, his heirs or assigns, in the name of the state, a deed of the land remaining unredeemed, which shall vest in the said purchaser, his heirs or assigns, an absolute estate in fee simple in such land, subject, however, to all the claims which the state may have thereon for taxes, or other liens or encumbrances; and such deeds shall be executed by the county auditor under his hand and the seal of the county, and such deeds shall be conclusive evidence of the truth of all the facts therein recited and prima facie evidence of the regularity of all the proceedings from the assessment and valuation of the land by the assessor up to the execution of the deed, and such deed shall be substantially in the following or other equivalent form:

Whereas, A. B. did on the day of I produce to the undersigned C. D., county auditor of the County of in the State of North Dakota, a certificate of purchase in writing bearing date of the day of I, signed by E. F., who at the last mentioned date was county auditor of said county, from which it appears that did on the day of I purchase at public auction at the office of the county auditor (or the usual place of holding court in the same building) the tract, parcel or lot of land lastly in this indenture described, and which lot was sold to for the sum of dollars, being the amount of taxes,

penalties and costs charged against said land, including personal taxes specified in the list and in the advertisement, constituting a lien thereon for the year (or years) 1, to-wit: (here insert the description of the land offered for sale), and it appearing that the said A. B. is the legal owner of the said certificate of purchase, and the time fixed by law for redeeming the land therein described, having now expired and proof of the notice of the expiration of the period of redemption having been filed in the office of the county auditor, prior to the maturing of such certificate as provided by law, and said land not having been redeemed from such purchase pursuant to law, and the said A. B. having demanded a deed for the tract of land mentioned in said certificate, and which was the smallest or least quantity of the said tract above described that would sell for the total amount of taxes, penalties and costs charged against it, including any personal taxes specified in the list and in the advertisement of the sale of said land, which were a lien upon it, and it appearing that said lands were legally liable for taxation, and had been duly assessed and properly charged on the tax book or duplicate for the year (or years) 1, and that said lands had been legally advertised for taxes and were sold on the day of 1

Now, therefore, this indenture made this day of 1 between the State of North Dakota by C. D. as county auditor of said county, of the first part and said A. B. of the second part;

Witnesseth, that the said party of the first part for and in consideration of the premises and the sum of one dollar in hand paid, has granted, bargained and sold, and by these presents does grant, bargain, sell and convey unto the said party of the second part heirs and assigns forever, the tract or parcel of land mentioned in said certificate and described as follows, to-wit: (Describe the land). To have and to hold said mentioned tract or parcel of land with the appurtenances thereto belonging, to the said party of the second part heirs and assigns forever, in as full and ample manner as the said county auditor of said county is empowered by law to sell the same.

In testimony whereof, the said C. D., as county auditor of said County of has hereunto set his hand on the day and year aforesaid.

Attest:

(Seal.) County Auditor of County, North Dakota.

Which deed shall be acknowledged by said county auditor before some one authorized by law to take acknowledgments of deeds, for which said deed the county auditor shall be entitled to a charge of fifty cents, to be paid by the grantee in such deed.

In case the land is bid in for the county and the certificate assigned under the provisions of section 90 of chapter 126, Laws of 1897, the language of such deed inappropriate to such sales shall be stricken out and the following inserted in lieu thereof:

"Offer for sale to the highest bidder the following described tract or parcel of real property: (insert description), which property was returned delinquent for the non-payment of taxes for the year 1 , amounting todollars, including interest and penalty thereon and the cost charged against said land including personal property taxes specified in the list and in the advertisement constituting the lien thereon, for the year (or years) and no one bidding upon such offer an amount equal to that for which said piece or parcel of land was subject to be sold, the same was bid in for the county. And it appearing by said certificate that the right, title and interest of the county for said tract or parcel of land acquired therein at said sale was on theday of 1 assigned to for the sum ofdollars, being the amount due thereon at that time."

Which deed shall be acknowledged as aforesaid.

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

Approved March 8, 1899.

TELEPHONE LINES.

CHAPTER 156.

[H. B. 94.]

RIGHT OF WAY.

AN ACT to Provide for the Granting of the Right of Way by Municipal Corporations for Telephone Lines on and Over Public Grounds, Streets, Alleys and Highways, and Making Valid such Grants Heretofore Made.

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

§ 1. RIGHT OF WAY.] That the board of county commissioners of any county, board of supervisors of any township, board of aldermen of any incorporated city or board of trustees of any town or village in this state, may, when deemed for the best interest of their respective municipal corporations, grant to any person who is a resident of this state, or to any company or corporation, the majority of the shares or stock of which is owned by residents of and the principal place of business of which is within this state, the right of way for the erection of a telephone line over or upon any public grounds, streets, alleys or highways under the care or supervision of such board granting such right of way.

Such right of way shall be granted subject to such conditions, restrictions and regulations as may be prescribed by the board granting the same, as to what grounds, streets, alleys or highways said

line shall run upon, over or across and as to the places where the poles to support the wires shall be located, and all grants or right of way for the construction of telephone lines heretofore made, in accordance herewith, by any board above mentioned, are hereby made valid.

§ 2. EMERGENCY.] Whereas, there is no law relating to the subject matter of this act: therefore, this act shall be in force and effect from and after its passage and approval.

Approved March 9, 1899.

TITLE TO REAL PROPERTY.

CHAPTER 157.

[H. B. 50.]

ACTIONS TO QUIET TITLE.

AN ACT to Amend Section 5907 of the Revised Codes of North Dakota, Relating to Who May be Made Parties Defendant in Acts to Quiet Title to Real Property.

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

§ 1. AMENDMENT.] That section 5907 of the Revised Codes of North Dakota be amended to read as follows:

§ 5907. In an action commenced by a person in or out of possession of real property to determine an adverse claim, interest or estate therein, the person making such adverse claim and persons in possession under him may be joined as defendants, and the plaintiffs may include as defendant or defendants in said action, and insert in the title thereof, in addition to the names of such persons or parties as appear of record to have, and other persons or parties, whether known or unknown, who may have some estate or interest in the lands in controversy, the following, to-wit: "Also all other persons or parties unknown, claiming any estate or interest in the real estate described in the complaint on file in said action," of deceased, "in case the unknown parties are heirs, and service of the summons may be had upon all such unknown persons or parties defendant by publication as provided by law in the case of non-residents, and all such unknown persons or parties so served shall have the same rights as are provided by law in case of all other defendants upon whom service is made by publication, and the action shall proceed against such unknown persons or parties in the same manner as against the defendants who are named, upon whom service is made by publication and with like effect; and any such unknown persons or parties who have any

estate or interest in said property in controversy at the time of the commencement of said action, duly served as aforesaid, shall be bound and concluded by the judgment in such case, if the same is in favor of plaintiff therein, as effectually as if the action was brought against such defendant in his or her name, and personal service of the summons obtained; provided, further that such judgment shall not bind such unknown persons or parties defendants unless the plaintiff shall file a notice of lis pendens in the office of the register of deeds, as provided by law, before commencing the publication of the summons. And a copy of said notice of lis pendens be printed and published with said summons," and following next thereafter in the columns of the newspaper wherein said summons is printed and published; and provided, further that this provision shall apply to all actions now pending wherein unknown persons or unknown heirs are made parties in the manner herein provided. If the judgment is for the plaintiff, he may have a writ for the possession of the premises as against the defendants in the action against whom the judgment is rendered.

§ 2. JUDGMENT OR DECREE, WHEN VALID.] That, when the heirs of a deceased person are proper parties defendant to any action relating to real property in this state, and when the names and residences of such heirs are unknown, such heirs may be proceeded against under the name and title of the unknown heirs of the deceased. Upon presenting an affidavit to the court or judge, showing to his satisfaction that the heirs of such deceased person are proper parties to the action, and that their names and residences cannot, with use of reasonable diligence, be ascertained, such court or judge may grant an order that service of the summons in such action be made on such unknown heirs by publication thereof in the same manner as in actions against non-resident defendants. Any order judgment or decree made or rendered in any such case shall be valid and binding on such unknown heirs, whether they be of age or minors. Such heirs may, on application to the court, and on sufficient cause shown, be allowed to defend such action at any time within one year after the rendition of judgment thereon; Provided that if it shall appear that such heirs were minors at the time such judgment was rendered, they may be allowed to defend the action at any time within two years from the day of their becoming of age.

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

Approved March 6, 1899.

CHAPTER 158.

[S. B. 121.]

RELATING TO TITLES.

AN ACT Relating to Titles to Real Property.

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

§ 1. TITLES TO REAL PROPERTY.] All titles to real property vested in any person or persons who have been or hereafter may be in the actual open adverse and undisputed possession of the land under such title for a period of ten years and shall have paid all taxes and assessments legally levied thereon, shall be and the same are declared good and valid in law, any law to the contrary notwithstanding.

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

Approved March 8, 1899.

TOWNSHIP MEETINGS.

CHAPTER 159.

[H. B. 132.]

ANNUAL MEETINGS.

AN ACT Amending Section 2540 of Chapter 31 of the Revised Codes of North Dakota, Relating to Annual Township Meetings.

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

§ 1. AMENDMENT.] That section 2540 of the Revised Codes be amended to read as follows:

§ 2540. ANNUAL TOWNSHIP MEETING, WHEN HELD.] The citizens of the several townships of this state qualified to vote at general elections, shall annually assemble and hold township meetings in their respective townships on the second Tuesday of March, at such place in each township as the electors thereof at their annual township meetings from time to time appoint; and notice of the time and place of holding such meetings shall be given by the township clerk by posting up written or printed notices in three of the most public places in such township at least ten days prior to such meetings; provided, that before any change of place of holding meetings

is made, notice of such contemplated change may be given by any member of the township board to the township clerk, who shall in his regularly printed or written notices as above provided, incorporate the special notice of the contemplated change of place of holding such meetings.

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

Approved March 6, 1899.

TOWNSHIP SUPERVISORS.

CHAPTER 160.

[H. B. 28.]

MEETINGS OF BOARD.

AN ACT to Amend "An Act Entitled an Act to Amend Section 2591 of the Revised Codes of North Dakota, Relating to the Meetings of Township Board of Supervisors," Passed by the Fifth Session of the Legislative Assembly of North Dakota, Relating to Meetings of Boards of Township Supervisors.

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

§ 1. AMENDMENT.] That an act entitled "An act to amend section 2591 of the Revised Codes of North Dakota, relating to meetings of the board of township supervisors," be amended so as to read as follows:

§ 2591. REGULAR MEETINGS.] The township board of supervisors shall hold regular meetings on the last Tuesday of February, the third Tuesday of March, the second Monday of June, and the last Tuesday of October of each year.

§ 2. EMERGENCY.] Whereas, an emergency exists in that the time of the sitting of said board of supervisors, in the month of March does not afford time for the approval of the official bonds of the assessors for each township, before the time when they are summoned to receive their supplies and instructions; therefore this act shall take effect upon its passage and approval by the governor.

Approved February 21, 1899.

TRESPASS OF ANIMALS.

CHAPTER 161.

[S. B. 91.]

TRESPASSING ANIMALS.

AN ACT to Amend Section 6156 of the Revised Codes, Relating to Custody of Trespassing Animals Until Damages Are Paid.

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

§ 1. AMENDMENT.] That section 6156 of the Revised Codes be amended so as to read as follows.

§ 6156. The person suffering damages as aforesaid may keep such offending animals in custody until the damages and costs are paid or until good and sufficient security is given therefor, such security to be approved by a justice of the peace in and for said township or county as provided for in cases bond (of bail) and arrest notice of the giving of such security must be given the person holding such stock at least one day before the approval of such security with the day and hour when such security will be submitted, (to) such justice for approval, when such security is approved as herein provided, said justice shall issue an order directly to the person holding such stock to forthwith deliver such stock to the party entitled thereto, and the official receiving such order shall take such stock and deliver the same to the person entitled thereto. The costs may be charged as part of the cost in the action to determine the rights of the parties regarding such stock and whenever any animals are restrained under this chapter, the person restraining the same shall forthwith notify the owner or person, in whose custody the animals were at the time the trespass was committed, of their seizure, if he knows such owner or person.

Approved March 8, 1899.

CHAPTER 162.

[H. B. 27.]

TRESPASS OF ANIMALS.

AN ACT to Amend Section 6153 of the Revised Codes of the State of North Dakota, Relating to the Trespass of Animals.

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

§ 1. AMENDMENT.] Section 6153 of the Revised Codes is hereby amended to read as follows:

§ 6153. LIABILITY OF OWNER FOR.] Any person owning or having in his charge or possession any horses, mules, cattle, goats, sheep or swine or any such animals, which shall trespass upon the lands of another whether fenced or not fenced, shall be liable to the party injured for all damages sustained by him by reason of such trespassing, to be recovered in a civil action in the county in which such damages occurred, and the proceedings shall be the same in all respects as in other civil actions except as herein modified; provided, that no property shall be exempt from execution issued upon judgment obtained under this chapter except absolute exemptions; and provided, further, that the party claiming damages under the provisions of this chapter shall bring an action to recover the same within sixty days after the infliction of such damages; provided, none of the provisions of this chapter shall be construed as conflicting with the provisions of section 1549 of the Political Code, permitting stock to run at large from the first day of November until the first day of April of each year.

Approved February 6, 1899.

TWINE AND CORDAGE PLANT.

CHAPTER 163.

[H. B. 129.]

ESTABLISHING A TWINE AND CORDAGE PLANT.

AN ACT Entitled "An Act Establishing a Hard Fibre Twine and Cordage Plant at the State Penitentiary near Bismarck, and Authorizing the Board of Trustees of the said State Penitentiary to Construct and Operate said Plant on the State's Account, and Prescribing Certain Duties for the State Auditor and State Treasurer in Connection Therewith."

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

§ 1. CORDAGE PLANT.] The board of trustees of the state penitentiary is hereby authorized and empowered to establish a hard fibre twine and cordage plant at the said penitentiary and to operate the same for the benefit of the state in the manner hereinafter prescribed.

§ 2. TRUSTEES SHALL CONSTRUCT BUILDINGS.] The said board of trustees shall at as early a date as practicable construct the necessary buildings and purchase the machinery, tools, fixtures and all other things that may be necessary to establish such twine and cordage plant at a cost not to exceed the sum of fifty thousand dollars (\$50,000).

§ 3. SHALL PURCHASE STOCK AND SUPPLIES.] Whenever in their judgment it shall seem wise the said board of trustees shall purchase the stock, material, supplies and all other things necessary or incident to the successful operation of said plant and shall proceed to operate the same, subject to the conditions hereinafter contained and under such regulations as said board of trustees may from time to time prescribe.

§ 4. \$150,000 APPROPRIATED.] In the operation of said plant the said board of trustees shall be and are hereby authorized to use the balance of the one hundred and fifty thousand dollars (\$150,000), (appropriated in and by a joint resolution of the Sixth legislative assembly for the purpose of establishing and operating such plant), which may remain after the expenditures referred to in section 2 of this act have been made, and they are further authorized to use for the purposes specified in this section and the last preceding section, any additions to this fund arising from sales of product of the plant, or so much thereof as may be necessary and the

funds or money referred to in this section shall be known as the "operating fund."

§ 5. AUDITOR AUTHORIZED TO DRAW WARRANTS.] The expenditures under this act shall be made in all respects as now provided by law, except that the state auditor is hereby authorized and required to issue his warrant on the state treasurer for the cost of fibre and transportation charges on the same, and for any other item or thing purchased which must be paid for in cash before delivery, at such times and in such amounts as may be needed by said board of trustees to pay for the fibre purchased and transportation charges thereon, and are to be issued upon the written application therefor, signed by the officers of said penitentiary who are authorized, from time to time, to sign the expense lists and orders for the institution, and contracts for the delivery of such fibre and bills for transportation of same must be delivered to said state auditor, by said officers of the penitentiary, at the time of making such written application, and are to be accepted and held by him as vouchers for the warrants issued by him, until such time as the regular vouchers therefor can be obtained and filed with the state auditor, which shall be done by the board of trustees of said penitentiary at the earliest practicable date.

§ 6. PRODUCT OF THE PLANT TO BE DISPOSED OF BY TRUSTEES.] The product of said twine and cordage plant shall be disposed of by the board of trustees of said penitentiary under regulations to be prescribed by them, subject only to the following restrictions, viz: The board of trustees of said penitentiary, at its regular meeting held in the month of April in each year, shall fix prices at which the product of the plant shall be sold during that season, such prices to be based on the cost of the product and the demand for it; prices for car load lots shall be one-half cent per pound under prices for smaller lots; the product shall be sold only to those living in the state, and intending and agreeing to use it or sell it for use in the state; the price of the product of the plant so established at the April meeting of the board of trustees shall continue to be the price for the season, unless it shall become evident to the board that the price so established is such that it will prevent the sale of the product, or such that the state will not receive a fair price, based on the market value of like product, in which cases a change in price can be made at any regular meeting of said board thereafter held.

§ 7. DUTY OF ACCOUNTING OFFICER.] It shall be the duty of the accounting officer of the said state penitentiary whenever the amount received by him for the product of said plant and deposited with the institution treasurer of said penitentiary shall exceed the sum of ten thousand dollars (\$10,000) to draw his order for the amount so deposited on the said institution treasurer in favor of the state treasurer, and deliver same to the said state treasurer, at the same time furnishing the state auditor with a statement showing the amount of 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.

§ 8. EMERGENCY.] An emergency exists in that there is a lack of employment for the inmates of the state penitentiary and there are no provisions of law under which the same can be obviated; therefore, this act shall be in force from and after its passage and approval.

Approved February 21, 1899.

UNIVERSITY.

CHAPTER 164.

[S. B. 174.]

AUTHORITY OF TRUSTEES.

AN ACT Authorizing, Empowering and Directing the Governor and Secretary of State to Grant and Convey Unto the University of the State of North Dakota a Certain Tract of Land, and Authorizing the Trustees of the University to Negotiate the Exchange of a Portion Thereof.

Whereas, By chapter 124 of the Laws of 1890, the legislative assembly permanently located the state fair at or near Grand Forks, upon condition that there be deeded the state for state fair purposes a tract of land not less than eighty acres in extent, and

Whereas, In compliance with said condition, there has been deeded in fee simple to the state the south half of the southwest quarter of section 5, in township one hundred fifty-one (151), north of range fifty (50) west, eighty acres more or less, according to the United States government survey thereof, and

Whereas, By chapter 134, Laws of 1897, the legislative assembly located the state fair at Mandan, and made an appropriation therefor, thereby and in that way by implication repealed the act locating said fair at Grand Forks, and

Whereas, the parties who purchased the tract of land before named, have consented and agreed that the same may be granted and transferred to the University aforesaid, therefore,

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

§ 1. GOVERNOR AND SECRETARY AUTHORIZED TO SIGN DEEDS.} That the governor and secretary of state are hereby authorized, empowered and directed to grant and convey unto the University of the State of North Dakota the south half of the southwest quarter

of section five (5) in township one hundred fifty-one (151), north of range fifty (50) west, save and except a strip of ground lying south and west of the north line of the right of way of the Great Northern Railway Company, in the southwest quarter of the southwest quarter of section five (5). in the aforesaid township and range, containing twelve (12) and 65-100 acres, which said strip of land the governor and secretary of state shall grant and convey unto the Great Northern Railway Company in consideration of the sum of five hundred dollars heretofore contributed by said railway company toward the purchase of said fair grounds. Such deeds to be under the seal of the state.

§ 2. TRUSTEES AUTHORIZED TO NEGOTIATE.] To secure a tract contiguous to the land already owned by said University, its trustees are authorized and empowered to negotiate with the owner of twenty acres lying near and adjacent to the land owned by the University, and separating the same from the eighty acres herein authorized to be transferred to the University, for twenty acres of the same on the west and north thereof, and when said negotiations are concluded, and a deed in fee simple for the same is delivered, then the governor and secretary of state, under the seal of the state, shall grant and convey by fee simple twenty acres of the aforesaid eighty acres in exchange therefor.

§ 3. REPEAL.] All acts or parts of acts in conflict herewith are hereby repealed.

§ 4. EMERGENCY.] An emergency exists in that it is essential to conclude the negotiations herein provided for prior to the close of the school year; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 4, 1899.

UNIVERSITY AND SCHOOL LANDS.

CHAPTER 165.

[S. B. 84]

MAY CHARGE CERTAIN FEES.

AN ACT Authorizing the Commissioner of University and School Lands to Charge Certain Fees for Services and to Establish the Same.

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

§ 1. FEES FOR SERVICES.] It shall be the duty of the commissioner of University and school lands to charge and collect the following fees: For each lease of school or other state lands, 75

cents; for each contract for lands purchased, \$1.00; for each patent, \$1.25; for approving and recording each assignment of school land contract, \$1.50; for furnishing certified copies of school land contract, \$1.50.

§ 2. FEES PAID IN ADVANCE.] All fees must be paid in advance and when collected must be paid into the state treasury at the end of each month and be placed to the credit of the expense fund of the board of University and school lands.

§ 3. DUTY OF COUNTY TREASURER.] It shall be the duty of the county treasurer of any county where any of the above lands are leased or sold to collect the fees hereinbefore provided for at the time the first payment thereon is made for leases and contracts of sale and transmit the same to the commissioner on the first day of each month.

§ 4. EMERGENCY.] Whereas, an emergency exists in that a large amount of business is being daily transacted in the office of the commissioner of University and school lands and no fees are collected by law for the same; therefore, this act shall be in force from and after its passage and approval.

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

Approved February 24, 1899.

CHAPTER 166.

[H. B. 96.]

EMPOWERED TO LEASE LANDS.

AN ACT for the Purpose of Authorizing the Commissioner of University and School Lands to Lease Cultivated Land to Clear the Same of Noxious Weeds.

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

§ 1. MAY LEASE CULTIVATED LANDS.] The commissioner of University and school lands is hereby authorized and empowered to lease cultivated school and institution lands in the several counties of the state for the period of two years for the purpose of summer-fallowing the first year and cropping the next, when in his opinion it is necessary so to do in order to clear the same of noxious weeds, said lessee to pay only one year's rent for the same.

§ 2. RENT IN ADVANCE.] When any lands are leased as above provided the party so leasing the same, before lease is approved by the board of University and school lands, shall pay to the county treasurer of the county in which the land is situated the total amount of rent therefor.

§ 3. WHEN LEASE MAY BE CANCELLED.] Should the lessee so renting the land as above provided fail or neglect to summer-fallow

the same at the proper time, the board of University and school lands in their discretion may declare the lease cancelled and the amount paid thereon will thereby become forfeited.

§ 4. EMERGENCY.] Whereas, an emergency exists in that there is no provision of law for the clearance of school lands of foul weeds; therefore, this act shall take effect and be in force immediately upon its passage and approval.

Approved March 9, 1899.

UNRECORDED INSTRUMENTS.

CHAPTER 167.

[S. B. 48.]

UNRECORDER INSTRUMENTS.

AN ACT to Amend Section 3598 of the Revised Codes, Relating to the Recording of Certain Instruments.

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

§ 1. AMENDMENT.] Section 3598 of the Revised Codes is hereby amended to read as follows:

§ 3598. UNRECORDED INSTRUMENTS VALID AS TO WHOM.] An unrecorded instrument is valid as between the parties thereto and those who have notice thereof; but knowledge of the record of an instrument out of the chain of title does not constitute such notice.

§ 2. EMERGENCY.] Whereas, an emergency exists in that instruments are frequently found of record out of the chain of title, which are a cloud upon such title; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved February 24, 1899.

VETERINARY SURGEONS.

CHAPTER 168.

[H. B. 114.]

PRACTICE OF VETERINARY.

AN ACT to Amend Section 1620 of the Revised Codes of the State of North Dakota, of the Revision of 1895. Relating to the Practice of Veterinary.

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

§ 1. AMENDMENT.] Section 1620 of the Revised Codes is here by amended to read as follows:

§ 1620. MISDEMEANOR TO PRACTICE, WHEN.] Any person who either

1. Practices veterinary medicines, surgery or dentistry, in this state without compliance with the provisions of this article; or
2. Willfully and falsely claims or pretends to have or hold a certificate of registration issued by such board; or
3. Willfully and falsely, with intent to deceive the public, claims or pretends to be a graduate of, or to hold a diploma granted by a legally authorized veterinary school, college or university, is guilty of a misdemeanor, and upon conviction is punishable by a fine of not less than fifty nor more than one hundred dollars, and in case of non-payment of such fine, the person so offending shall be liable to imprisonment for a period not exceeding six months; provided, that the provisions of this section do not apply to persons practicing castration. All fines received under this article shall be paid into the common school fund of the county in which such conviction takes place

§ 2. EMERGENCY.] There being no law covering this subject an emergency exists; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved February 27, 1899.

VITAL STATISTICS.

CHAPTER 169.

[H. B. 17.]

COLLECTION OF VITAL STATISTICS.

AN ACT Providing for the Collection of Vital Statistics.

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

§ 1. COLLECTION OF VITAL STATISTICS.] The health officer of each city and superintendent of the county board of health of each county in this state, shall obtain and register the following facts concerning the births and deaths occurring therein, separately numbering and recording the same in the order in which he obtains them, designating in separate columns, viz: In the registry of births, the date of birth, the name of the child (if it have any), the sex and color of the child, the names and places of birth of the parents, and the date of the record; in the registry of deaths, the date of death (the name of the deceased), the sex and color, and the condition, whether single, widowed or unmarried, the age and place of birth, the names and places of birth of the parents, the disease or cause of death, and the date of the record. The county auditor of each county shall furnish each health officer within his county, at the expense of the county, a book in which to register the facts concerning the births and deaths as above provided. And the superintendent of each county board of health shall keep his records in the office of the county judge of said county.

§ 2. NOTICE TO HEALTH OFFICER.] Parents shall give notice to such health officer, of the births and deaths of their children; every householder shall give like notice of every birth and death happening in his house; the oldest person, next of kin, shall give such notice of the death of his kindred; the keeper, or other proper officer, of every workhouse, poorhouse, reform school, jail, prison, hospital, asylum, or other public or charitable institution, shall give like notice of any birth or death happening among the persons under his charge. Whoever neglects or refuses to give such notice for the period of ten (10) days after the occurrence of a birth or death, shall forfeit a sum not exceeding twenty (20) dollars, to be collected as other fines are collected by law.

§ 3. PHYSICIAN'S CERTIFICATE.] Any physician having attended a person during his last illness, shall within five (5) days after the

decease of such person furnish for registration to such health officer. a certificate of the duration of the last illness, the name of the deceased, his age, the disease of which the person died, and the date of his decease. And any physician or midwife having attended a case of confinement, shall, within five (5) days thereafter, furnish for registration to said health officer, a certificate of the date of birth, sex and color of the child with the names, dates and places of birth of the parents. If any physician or midwife neglects to make such certificate, he shall forfeit the sum of twenty-five (25) dollars, to be collected as other fines are collected by law.

§ 4. HEALTH OFFICER SHALL TRANSMIT CERTIFIED COPY.] The health officer of each city shall, on or before the fifth (5) day of each month, transmit to the superintendent of the board of health of the county in which said city is situated upon blanks furnished him by the county auditor, a certified copy of the registry of births and deaths which have occurred within said city during the calendar month immediately preceding. For obtaining, registering and returning the facts herein required, such health officer shall be entitled to receive from the county treasury of his county ten (10) cents for each birth or death so obtained, registered, and reported. And for neglect to perform such duties he shall forfeit a sum not exceeding fifty (50) dollars for each offense, to be collected as other fines are collected.

§ 5. REGISTRY OF BIRTHS AND DEATHS.] The superintendent of each county board of health shall, on or before the tenth day of each month, transmit to the superintendent of the state board of health, upon blanks furnished him by the state board of health, a certified copy of the registry of births and deaths which have occurred in said county within the calendar month immediately preceding. For obtaining, registering and returning the facts herein required, such health officer shall be entitled to receive from the county treasury of his county ten (10) cents for each birth or death so obtained, registered and reported. And for neglect to perform such duties as herein required, he shall forfeit a sum not exceeding fifty (50) dollars for each offense, to be collected as other fines are collected.

§ 6. STATE BOARD OF HEALTH SHALL FURNISH BLANKS.] It shall be the duty of the state board of health to prepare and furnish to such health officers suitable blanks and instructions for making the returns herein provided for. And the superintendent of the state board of health, shall, on or before the fifteenth day of January of each year, issue to the health officer of each city and county a certificate showing the amount due to them respectively, for obtaining, registering and reporting the births and deaths aforesaid.

§ 7. COUNTY AUDITOR SHALL ISSUE WARRANT.] The county auditor of each county upon the presentation to him of the aforesaid certificate of the superintendent of the state board of health shall issue and deliver to each health officer in his county respectively, his warrant upon the county treasurer for the amount in said certificate

stated to be due to such health officer. And the county treasurer upon the presentation of such warrant, shall pay the same to the person entitled thereto out of the general funds of the county treasury.

§ 8. REPEAL.] Section 5 of chapter 63 and sections 3 and 4 of chapter 137 of general statutes of 1885, and all other acts or parts of acts inconsistent with this act are hereby repealed.

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

Approved March 8, 1899.

VOUCHERS AND WARRANTS.

CHAPTER 170.

[H. B. 191.]

VOUCHERS AND WARRANTS SHALL BE NUMBERED.

AN ACT to Provide that the State Auditor Shall Consecutively Number all Vouchers Filed for Bills, Claims or Accounts Against any of the Funds in the Treasury of the State of North Dakota, and to Issue Consecutively all Warrants, Orders, or Certificates for or Upon such Vouchers in the Same Order that such Vouchers shall Have Been Received and Filed by Him, Except where Appropriations Shall Have Been Exhausted; also for State Officers' Salary and Clerk Hire.

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

§ 1. VOUCHERS AND WARRANTS, HOW NUMBERED.] All vouchers which shall be presented to the state auditor for any bills, claims or accounts against any funds in the treasury of this state shall be numbered consecutively against such fund by the state auditor in the order in which they shall be presented and filed, and a record shall be kept of the same. All warrants, orders or certificates which shall be issued by the state auditor for or upon any such vouchers and against any fund in the treasury of this state shall be issued consecutively and in the same order that the state auditor shall have received the same, except when the appropriations made to any fund shall have been exhausted; also for state officers' salary and clerkhire. Each voucher shall show the postoffice address of the person in whose favor said warrant shall be made, and the state auditor shall mail said warrant to the address as given as soon as issued; provided that none of the provisions of this bill shall apply to moneys in the treasury appropriated for the maintenance of the state capital.

§ 2. EMERGENCY.] Whereas, there is now no law providing that the state auditor shall number vouchers filed for bills, claims or accounts, an emergency exists; therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 6, 1899.

WATER COMPANIES.

CHAPTER 171.

[H. B. 174.]

WATER COMPANIES MAY CROSS BRIDGES.

AN ACT to Permit Water Companies to Cross Over Bridges with Their Pipes.

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

§ 1. MAY CROSS BRIDGES.] Any duly incorporated company, or city, engaged in the business of furnishing water for domestic, fire and irrigation purposes, to individuals, towns, cities, counties or corporations, of this state, shall be permitted to attach its water pipes to any wagon or railroad bridge crossing a stream wholly or in part within this state, provided that such water company shall pay to the owners of said bridge, whether belonging to a city, county or railroad company, a sum not exceeding five cents for each hundred thousand gallons of water that shall be run through said pipes over said bridge, and the owner of said bridge shall be allowed such access to the books of said water company as shall enable it to ascertain how much water has in a given period, run through said pipes.

Approved March 8, 1899.

WATER WORKS.

CHAPTER 172.

[H. B. 189.]

FIRE APPARATUS.

AN ACT to Amend Section 2459 of the Revised Codes of North Dakota, Relating to Water Works and Fire Apparatus in Cities, Towns and Villages.

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

§ 1. AMENDMENT.] That section 2459 of the Revised Codes be amended so as to read as follows:

§ 2459. All cities, towns and villages in this state having a population of one thousand inhabitants or more are authorized and empowered to purchase, erect, lease, rent, manage and maintain any system or part of system of water works, hydrants and supply of water, telegraph fire signals or fire apparatus that may be of use in the prevention and extinguishment of fires; and to pass such ordinances, penal or otherwise, as may be necessary for the full protection, maintenance, management and control of the property so leased, purchased or erected. The city council or board of trustees of such city, or municipal corporation is authorized and empowered to assess, levy and collect taxes for the purposes aforesaid, and to do all acts necessary to carry such lease and contracts of purchase, erection or maintenance into effect, and to pay the stipulated rent or contract prices for the property so leased, purchased, erected or to be maintained; provided, that any such lease or contracts for purchase, erection or maintenance which shall stipulate for an annual payment greater than an annual levy of seven mills upon each dollar of the assessed valuation of such city or municipal corporation shall not be authorized until the contract providing therefor shall first have been submitted to a vote of the people of such city or municipal corporation at a general or special election and ratified by a majority of the voters of said city or municipal corporation voting at such election.

§ 2. EMERGENCY.] Whereas, there is now no law authorizing cities, towns and villages to raise sufficient revenue for water works and fire apparatus, an emergency exists; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 7, 1899.

WATER RIGHTS OF WAY.

CHAPTER 173.

[H. B. 211.]

RIGHT TO WATER RIGHT OF WAY.

AN ACT to Provide for Persons Holding Lands, the Right to Water Right of Way for Conducting the Same by Dams, Dykes, Ditches, Flumes or Canals and Other Purposes.

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

§ 1. RIGHTS OF HOLDERS OF LANDS.] Any person or persons, corporation or company, who may have or hold a title or possessory right or title of any mineral or agricultural lands within the boundaries of this state, shall be entitled to the usual enjoyment of the waters of the streams or creeks in said state, for mining, milling, agricultural or domestic purposes; provided, that the right to such use shall not interfere with any prior right or claim to such waters, when the law has been complied with in doing the necessary work.

§ 2. MAY HAVE RIGHT OF WAY.] When any person or persons, corporation or company, owning or holding lands as provided in section 1, shall have no available water facilities upon the same, or whenever such lands are too far removed from any stream or creek to use the waters thereof as aforesaid, such person or persons, corporation or company shall have the right of way through and over any tract or piece of land for the purpose of conducting and conveying said water by means of dams, ditches, dykes, flumes or canals for the purpose aforesaid.

§ 3. LIMITATION OF RIGHT TO DIG.] Such right to dig and construct such dams, ditches, dykes, flumes and canals, over and across the lands of another, shall only extend to such digging, cutting, building or excavating as may be necessary for the purposes required.

§ 4. IN CASE OF CONTROVERSIES.] In all controversies respecting rights of water under the provisions of this act, the same shall be determined by the date of appropriation as respectively made by the parties, whether for mining, milling, agricultural or domestic purposes.

§ 5. RIGHTS OF PRIOR APPROPRIATOR.] The waters of the streams or creeks of this state may be made available to the full extent of the capacity thereof, for mining, milling, agricultural or domestic purposes without regard to deterioration in quality or dim-

inution in quantity so that the same do not materially effect or impair the rights of the prior appropriator.

§ 6. LIABILITY FOR DAMAGES.] Any person or persons, corporation or company, damaging or injuring the lands, or possessions of another by reason of cutting, building, digging ditches, or erecting dams, flumes, dykes or canals, as provided by the second section of this act, shall be liable to the party so injured for actual damage occasioned thereby.

§ 7. CONSTRUCTION OF THIS ACT.] This act shall not be so construed as to impair or in any way or manner interfere with the rights of parties to the use of the waters of such streams or creeks acquired before the passage of this act; provided, that all water rights or ditches that have not been used or worked upon for one year next prior to the passage of this act shall be deemed abandoned, and forfeited and subject to appropriation anew. Any person or persons, corporation or company who may dig any ditch, canal, dyke or flume, or erect any dam over and across any public road, trail or highway, or who use the waters of such dam, ditch, dyke or canal, shall be required to bridge the same and keep the same in good repair at such crossing or other places where the water from any such ditch, dyke, dam, flume or canal may flow over or in any way injure any road, trail or highway either by bridge or otherwise.

§ 8. PENALTY.] Any person or persons, corporation or company offending against section 7 of this act, on conviction thereof shall forfeit and pay for every such offense a penalty of not less than ten, nor more than one hundred dollars, to be recovered with costs of suit in civil action in the name of the State of North Dakota, before any court having jurisdiction, and the fine so collected shall be paid to the county treasurer and by him be credited to the county general funds, and it is hereby made the duty of all road overseers to make complaint, and any taxpayer of the county may make complaint to the nearest magistrate that such offense has been committed. All such fines and costs shall be collected without stay of execution and such defendant or defendants may by order of the court be confined in the common county jail until such fines and costs have been paid.

§ 9. SHALL FILE LOCATION CERTIFICATE.] That any person or persons, corporation or company appropriating the waters of any stream or creek in this state shall turn the water from the channel at least twenty feet of ditch or flume within sixty days from the date of appropriation, and turn the water therein and construct at least twenty rods of said ditch, flume or dyke if needed within six months from the date of such appropriation, and turn the water therein, and within thirty days from the date of location, the locator or locators of such water right, shall file a location certificate together with a map showing the proposed dam, or dams, ditches or dykes, flumes or canals, giving the description of the location by legal subdivision or by metes and bounds thereof, with the

register of deeds in the proper county within which such water right is located and situated. A copy of such certificate shall be posted at or near the head of such ditch, flume or canal and shall contain the name of the locators, the date of location, number of inches of water claimed or appropriated, and the purpose of the appropriation, and in no case shall the number of inches of water claimed exceed the conveying capacity of the first twenty feet of the flume, ditch or canal. Nor shall said ditch, flume or canal be enlarged to the prejudice or injury of a subsequent appropriator before such enlargement.

§ 10. WHEN APPROPRIATION DEEMED ABANDONED.] On failure to commence construction of any such dam, ditch, flume, dyke or canal or any of them, within 60 days from date of filing of location, and prosecute such dam, ditch, flume or dyke to a final completion without unnecessary delay, such appropriation shall be deemed abandoned.

Approved March 8, 1899.

WITNESSES.

CHAPTER 174.

[H. B. 209.]

WITNESSES IN CRIMINAL ACTIONS.

AN ACT to Amend Section 7960 of the Revised Codes of North Dakota, Relating to Examination of Witnesses in Criminal Actions.

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

§ 1. AMENDMENT.] That section 7960 of the Revised Codes of the State of North Dakota be amended to read as follows:

§ 7960. The witnesses must be examined in the presence of the defendant, and may be cross-examined in his behalf. And on demand of the state or the defendant all the testimony in the case must be reduced to writing in the form of depositions, or the testimony may be taken by stenographer if the state and the defendant consent thereto.

§ 2. EMERGENCY.] Whereas, there is now no law adequately providing for the taking of testimony in criminal actions, an emergency exists; therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 7, 1899.

CHAPTER 175.

[H. B. 199.]

WITNESSES RESIDING OUT OF THE COUNTY

AN ACT to Amend Section 8369 of the Revised Codes of North Dakota.

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

§ 1. AMENDMENT.] That section 8369 of the Revised Codes be and the same is hereby amended to read as follows:

§ 8369. No person is obliged to attend as a witness before a court or magistrate out of the county where the witness resides or is served with the subpoena, unless the committing magistrate before whom the defendant is brought or the judge of the court in which the offense is triable, or a judge of the District Court or a judge of the Supreme Court upon an affidavit of the state's attorney or prosecutor, or of the defendant, or his counsel, stating that he believes the evidence of the witness is material, and his attendance at the examination or trial necessary, shall indorse upon the subpoena an order for the attendance of the witness.

Approved March 8, 1899.

CONCURRENT RESOLUTIONS.

CHAPTER 176.

PENSIONS FOR UNION SOLDIERS.

CONCURRENT RESOLUTION.

Be it Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring:

That the senators and representatives of the State of North Dakota in the National Congress be requested to favor and assist in securing a fair and liberal service pension to every union soldier veteran of the Civil War, not already a pensioner, regardless of any disability accruing from said service or since, whenever said soldier shall have arrived at the age of sixty-two years.

CHAPTER 177.

FUND FOR NORTH DAKOTA VOLUNTEERS.

CONCURRENT RESOLUTION Providing a Contingent Fund for the First North Dakota Volunteers.

Be it Resolved by the Senate, the House of Representatives Concurring:

That the governor be and he is hereby empowered and directed to draw the sum of \$2,500 from the military appropriation of the State of North Dakota and transmit the same to the First North Dakota Volunteers at Manila in the Philippine Islands, to be used as a contingent fund for the comfort and welfare of said volunteers under the direction of a board consisting of the field officers and company commanders in command of troops.

CHAPTER 178.

FUND FOR NORTH DAKOTA VOLUNTEERS.

CONCURRENT RESOLUTION Providing a Contingent Fund for the First North Dakota Volunteers.

Be it Resolved by the Senate, the House of Representatives Concurring:

That the governor be and he is hereby empowered and directed to draw the sum of \$2,500 from the military appropriation of the State of North Dakota and transmit the same to the First North Dakota Volunteers at Manila in the Philippine Islands, to be used as a contingent fund for the comfort and welfare of said volunteers under the direction of a board consisting of the field officers and company commanders in command of said troops.

Approved March 6, 1899.

CHAPTER 179.

BONDS OF UNIVERSITY OF NORTH DAKOTA.

CONCURRENT RESOLUTION.

Be it Resolved by the Senate, the House of Representatives Concurring:

Whereas, From the treasurer's report it appears that \$22,700 of 4 per cent interest bearing bonds, issued for the University of North Dakota, dated May 1st, 1889, and due May 1st, 1909, with payment optional May 1st, 1899, and

Whereas, The board of university and school lands has money enough on hand at all times to take up said bonds, therefore be it

Resolved, That the board of university and school lands is hereby requested to bid for said bonds at par to bear interest at the rate of 4 per cent per annum, payable semi-annually, and that the treasurer of the State of North Dakota be and he is hereby instructed to redeem said bonds May 1st, 1899, and re-issue them to the board of university and school lands at 4 per cent interest, payable semi-annually, to run twenty years from date of issue; providing said board bids in compliance with this resolution, and be it further

Resolved, That a copy of this resolution be presented to the secretary of said board and another to the state treasurer.

CHAPTER 180.

LIST OF STATE OFFICERS.

CONCURRENT RESOLUTION.

Be it Resolved by the Senate of the State of North Dakota, the House Concurring:

That the secretary of state is requested to prepare for the use of the state officers and members of the legislative assembly, a legislative manual embodying therein a list of the state officers, members of the senate and house, officers of the respective bodies, the committees thereof, the rules of the respective bodies, the constitution of the state, and such other information as may be necessary and useful for the state officers and members of the legislative assembly.

CHAPTER 181.

STATE FUNDING WARRANTS.

CONCURRENT RESOLUTION.

Be it Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring:

That the state treasurer, with the advice and consent of the governor and state auditor, be hereby authorized and instructed to negotiate and dispose of state funding warrants not to exceed \$100,000 in the aggregate, at such discount as will allow a reasonable rate of interest, such indebtedness to become due and payable on, or before January 1, 1901. The existing conditions are such that the collection of taxes from the counties from now until January 1, 1900, may not be sufficient to meet expenses; therefore, this loan is necessary to protect the credit of the state and of the state institutions.

CHAPTER 182.

DEATH OF GOVERNOR FRANK A. BRIGGS.

CONCURRENT RESOLUTION.

Resolved, That in the death of Governor Frank A. Briggs the state lost a safe executive and a patriotic citizen, loyal to his state and people.

Resolved, That Saturday, February 11th, beginning at 2 o'clock p. m., be set apart for appropriate eulogies to his memory, and that the senate and house meet in joint assembly at that time.

Resolved, That as an additional mark of respect; the senate and house shall at the conclusion of these ceremonies, adjourn.

Resolved That the senate communicate these resolutions to the house.

CHAPTER 183.

MAJOR FRANK WHITE.

JOINT RESOLUTION by the Senate and House of Representatives of the Sixth Legislative Assembly of the State of North Dakota in re Major Frank White of the First North Dakota Volunteer Infantry

Whereas, Major Frank White, senior major of the First North Dakota Volunteer Infantry now on duty in the Philippines, has faithfully served the State of North Dakota in his capacity as representative and state senator for the Fifteenth legislative district during the legislative sessions of 1891, 1893, 1895 and 1897; and

Whereas, We, the members of the Sixth legislative assembly of the State of North Dakota, well know the honor, honesty and ability of Major White; and

Whereas, He has repeatedly shown his aptitude in the management of difficult situations, and has undoubtedly made a study of the conditions prevailing at Manila with a view to their amelioration by executive or legislative action.

Now, therefore, Be it Resolved, That we, the senators and representatives of the Sixth legislative assembly of the State of North Dakota commend Major Frank White to the president of the United States as a person of excellent character and education, and respectfully suggest that he be employed by the president in such executive, advisory or legislative capacity at Manila or in the Philippine Islands as may appear advisable.

CHAPTER 184.

TWINE AND CORDAGE PLANT.

CONCURRENT RESOLUTION.

Whereas, It appears from the report of the warden of the state penitentiary that there is lack of employment for the inmates of that institution, resulting in a financial disadvantage to the state and tending to produce unfavorable mental and physical conditions among the inmates; and

Whereas, It also appears that in the year 1891, a "Twine and Cordage Plant" was built and in the following year started in operation at the Minnesota state penitentiary located at Stillwater in that state; that the said plant has been operated since that time with such success that the institution is now self-supporting, and during the last year the earnings of the inmates exceeded the expense (per capita) of keeping each of them, by the sum of \$114.62, while in the year 1891, the year before the "Twine Plant" was put in operation, the excess of the expense over the earnings was \$145.63 per capita; therefore,

Be it Resolved by the House of Representatives, the Senate Concurring:

That a committee, consisting of three members from the house of representatives, to be appointed by the speaker, and two members from the senate, to be appointed by the president of the senate, be appointed to investigate the matters above referred to; to visit the said Minnesota state penitentiary for that purpose, if it shall seem advisable to them to do so, and report with all convenient speed to this legislature such recommendations on the subject as to them may seem wise.

CHAPTER 185.

CARE OF LEPERS.

CONCURRENT RESOLUTION of the House of Representatives and Senate of the State of North Dakota, to the Congress of the United States, Praying for the Establishment of a National Lazaretto for the Care and Maintenance of Citizens of the United States Afflicted with Leprosy

To the Honorable, the Congress of the United States:

Whereas, There are now residing in this state a few citizens of the United States afflicted with that most loathsome disease, leprosy, and

Whereas, Owing to the contagious and incurable nature of the

disease which baffles the skill of medical science, and endangers the safety of the public; and

Whereas, The care and maintenance of these unfortunate people by the local authorities of the state is impracticable and dangerous; therefore, be it

Be it Resolved by the House of Representatives, the Senate Concurring:

That your honorable body be requested and urged to take prompt action in establishing and maintaining a national Lazaretto for the care and treatment of citizens of the United States afflicted with leprosy;

Resolved, further, That engrossed copies of the memorial, duly signed by the speaker of the house and president of the senate and countersigned by the chief clerk of the house and secretary of the senate, be sent to each of our representatives in congress, the Honorable Henry C. Hansbrough and William N. Roach, members of the United States senate, and Martin N. Johnson, member of the house of representatives.

CHAPTER 186.

CONCURRENT RESOLUTION.

Be it Resolved by the Senate of the State of North Dakota, the House Concurring:

That, Whereas, The profession of arms has in all ages been regarded with favor and men of valor held in high esteem; and

Whereas, We, as American people, realize that we owe our existence to military strength and achievement, not from choice but of necessity, and while we might boast that we have never taken up the sword but in the defense of humanity and right, and having left no shackles upon our citizens at home, we may feel proud, and justly so, of having been chosen as an instrument in the hands of an over-ruling power in striking the fetters that for ages have bound an alien people.

Therefore, We, the representative people of the State of North Dakota in legislative assembly convened, do declare it to be the sense of this body and its constituency that those of our citizens who went forth in the recent war manifested a high and grand patriotism in so nobly giving their services in a cause so just and righteous, and for which they are held in the highest regard and esteem by their fellow citizens, not only of this state but by the whole civilized world.

JOINT MEMORIALS.

CHAPTER 187.

INSPECTION OF GRAIN.

MEMORIAL AND CONCURRENT RESOLUTION, Relating to Inspection of Grain by the Government of the United States.

Be it Resolved by the Senate, the House of Representatives Concurring:

To the Honorable, the Congress of the United States of America:

Whereas, The right of the people in every state to be heard in the matter of the inspection of grain cannot be denied, and

Whereas, Neither the agricultural interests, the transportation interests, or the large elevator interests should be subjected to the interference, influence or interruption of state politics or local ambitions of cities, and

Whereas, The existence of a number of conflicting systems of inspection of grain does not result to the advantage of either the producers or handlers of grain, but on the contrary promotes the manipulation of it in large quantities in ways which cannot fail to injure and discredit the grain trade and all interested therein, and

Whereas, We believe a uniform inspection of grain throughout the United States by the government would greatly simplify, facilitate and cheapen the process of transferring grain from the producer to the consumer, as well as its use as collateral, and

Whereas, We believe that grain going to the markets of the old world with certificates issued by government of the United States would be placed on those markets under the most favorable conditions,

Therefore, be it Resolved, That the congress of the United States be earnestly and urgently requested to enact the necessary law to provide federal inspection of grain, under the secretary of agriculture, by the districts, for Lake Superior, Lake Michigan, North Atlantic, South Atlantic, Gulf, North Pacific, South Pacific, and such others as are necessary, all under civil service rules.

Resolved, That the secretary of state is hereby instructed to forthwith transmit this memorial to congress and to send copies hereof to the secretary of agriculture, secretary of the interior, to Senators H. C. Hansbrough and P. J. McCumber and Congressman B. F. Spalding.

CHAPTER 188.

SUBSIDIES TO STEAMSHIP COMPANIES.

A JOINT MEMORIAL of the Senate and House of Representatives of the State of North Dakota to the Senate and House of Representatives of the United States, Praying for an Act to Encourage the Shipment of Grain to China and Japan by Granting Subsidies to Steamship Companies.

Be it Resolved by the Senate, the House of Representatives Concurring:

That a copy of the following memorial, signed by the president of the senate and speaker of the house of representatives, and attested by the secretary of the senate and by the chief clerk of the house of representatives, be sent Honorable Henry C. Hansbrough and William N. Roach of the United States senate, and Martin N. Johnson of the house of representatives, at Washington, D. C.

That said Honorable Henry C. Hansbrough and William N. Roach, representing the State of North Dakota in the senate of the United States, and Honorable Martin N. Johnson, representing the State of North Dakota in the house of representatives, be and they are hereby respectfully requested to support in their respective houses and urge the passage of an act of congress "To promote the commerce and increase foreign trade of the United States and to provide auxiliary cruisers, transports, and seamen for government use when necessary."

Whereas, The raising of wheat in North Dakota is the principal industry of the state; the past year this crop represented approximately ten per cent of the total crop grown in the United States, and its aggregate value was about \$30,000,000, and,

Whereas, Under existing conditions there is but one market, Liverpool, for the surplus wheat raised in this country, and the price fixed by this foreign market practically establishes the price for the entire wheat crop of the United States, and

Whereas, To encourage the opening up of new markets for our surplus grain, thereby enabling our farmers to secure better prices for the same, is manifestly within the scope of the powers granted to our representatives in congress,

Therefore, The people of the state of North Dakota, in legislative convention assembled, respectively petition congress to grant such subsidies for the building up of a merchant marine as will among other things, secure for our people new markets for their grain in China, Japan and other Oriental countries.

Provided, however, It is to be understood that all members of the house of representatives know that Henry C. Hansbrough has, since the term of his office, persistently and at all times tried to get legislation through the senate of the United States in conformity

with the requests of this resolution, and further, that the senate of the United States, in the passage of the Hanna bill, two weeks ago, adopted, so far as they are concerned, all the request made in the concurrent resolution; and, further, that the bill is now before congress in the house of representatives.

JOINT RESOLUTIONS.

CHAPTER 189.

TWINE AND CORDAGE PLANT.

JOINT RESOLUTION of the Senate and House of Representatives of the Sixth Legislative Assembly of the State of North Dakota, Authorizing and Instructing the Governor, Auditor and Treasurer of the State of North Dakota to Issue and Dispose of Certificates of Indebtedness to Cover the Cost of Establishing and Operating a Twine and Cordage Plant at the State Penitentiary.

Be it Resolved by the Senate of the Sixth Legislative Assembly of the State of North Dakota, the House of Representatives Concurring:

That the governor, auditor and treasurer of the State of North Dakota, are hereby authorized and instructed to issue and dispose of certificates of indebtedness, in denominations such as may seem to them advisable, to provide funds in an amount not to exceed one hundred and fifty thousand dollars (\$150,000), and at such discount as will allow a reasonable rate of interest, the proceeds thereof to be placed in the hands of the state treasurer, the same, or so much thereof as may be necessary, to be used, is hereby appropriated for the purpose and to cover the expense of establishing and operating a "Twine and Cordage Plant" at the state penitentiary, and is to be paid out by said state treasurer in the manner which is now or may hereafter be prescribed by law; such indebtedness to become due and payable, one-half on or before November 1st, 1902, and the remaining half on or before November 1st, 1904.

EMERGENCY.] An emergency exists in that there is a lack of employment for the inmates of the penitentiary, and the above provision is urgently needed to provide therefor.

Approved February 17, 1899.

CHAPTER 190.

COMPENSATION OF LEGISLATIVE EMPLOYEES.

JOINT RESOLUTION.

Be it Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring:

That the compensation of the doorkeepers, assistant sergeant-at-arms, janitors and watchmen of the senate and house of representatives shall be four dollars per day, and this shall apply to the doorkeepers, assistant sergeant-at-arms, watchmen and janitors of the present legislative assembly.

Approved March 8, 1899.

PROPOSED AMENDMENTS TO CONSTITUTION.

CONCURRENT RESOLUTION.

[To be Submitted at the General Election of 1900.]

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 agreed to by the Fifth legislative assembly of the State of North Dakota, be and the same is hereby agreed to, and said amendment shall be submitted to the people at the next general election.

AMENDMENT.

§ 1. Section 76 of article 3 of the constitution of the State of North Dakota is amended so as to read as follows:

§ 76. The governor shall have power in conjunction with the board of pardon of which the governor shall be ex-officio a member and the other members of which shall consist of the attorney general of the State of North Dakota, the chief justice of the Supreme Court of the State of North Dakota and two qualified electors who shall be appointed by the governor, to remit fines and forfeitures, to grant reprieves, commutations and pardons after conviction for all offenses except treason and cases of impeachment; but the legis-

lative assembly may by law regulate the manner in which the remission of fines, pardons, commutations and reprieves may be applied for.

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

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

CONCURRENT RESOLUTION.

Be it Resolved by the Senate, the House of Representatives Concurring:

That the following amendment to the constitution of the State of North Dakota be adopted by the Sixth legislative assembly of the State of North Dakota and by it submitted to the Seventh legislative assembly of said state for approval.

AMENDMENT.

That section 176 of the constitution of the State of North Dakota be amended by adding thereto and making part thereof the following clause:

The legislative assembly may further provide that grain grown within the state and held therein in elevators, warehouses and granaries may be taxed at a fixed rate.

CONCURRENT RESOLUTION.

Be it Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring:

The following proposition to amend the constitution of the State of North Dakota is hereby submitted to the Seventh session of the legislative assembly of the State of North Dakota, to be by it submitted to the qualified electors of the state for approval or rejection, in case the congress of the United States amends the enabling act to like effect, namely:

Section 158 of the constitution of the State of North Dakota is hereby amended to read as follows: "No lands other than those granted for the use and benefit of the common schools shall be sold for less than the appraised value and in no case for less than

five 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 and the remaining four-fifths at the option of the purchaser in not more than twenty years, with interest at the rate of not less than six per centum, payable annually in advance. All sales shall be held at the county seat of the county in which the land to be sold is situated and shall be at public auction and to the highest bidder, after sixty days' advertisement of the same in a newspaper of general circulation in the vicinity of the lands to be sold, and one at the seat of government. Such lands as shall not have been 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 the date of such contract. In case the taxes assessed against any of said lands for any year remain unpaid until the first Monday in October of the following year, then and thereupon the contract of sale for such lands shall become null and void; provided, further, that sections 16 and 36 or any indemnity lands selected in lieu of losses thereof, appropriated for the common schools of the state shall not be sold for less than \$10 per acre.

Approved March 8, 1899.

CONCURRENT RESOLUTION.

Be it Resolved by the Senate, the House of Representatives Concurring:

That the following amendment to the constitution of the State of North Dakota be agreed to by the Sixth legislative assembly of the State of North Dakota and by it referred to the Seventh legislative assembly of said state for approval:

AMENDMENT.

That subdivision 8 of section 215 of the constitution of the State of North Dakota be amended so as to read as follows:

8. A state hospital for the insane at the City of Jamestown, in the County of Stutsman. And the legislative assembly shall appropriate twenty thousand acres of the grant of lands made by the act of congress aforesaid for "Other Educational and Charitable Institutions" to the benefit and for the endowment of said institution, and there shall be located at or near the City of Grafton, in the County of Walsh, an institution for the feeble minded, on the grounds purchased by the secretary of the interior for a penitentiary building.

CONCURRENT RESOLUTION.

Be it Resolved by the House of Representatives, the Senate Concurring:

§ 1. That the following proposed amendment of section 179 of the constitution of the State of North Dakota, relating to the assessment of railroads, express companies, freight line companies, car equipment companies, sleeping car companies, dining car companies, telegraph companies and telephone companies, agreed to by the Fifth legislative assembly of the State of North Dakota, be and the same is hereby agreed to, and said amendment shall be submitted to the people at the next general election.

AMENDMENT.

§ 2. That section 179 of the constitution of the State of North Dakota be amended to read as follows:

§ 179. All property, except as hereinafter in this section provided, shall be assessed in the county, city, township, town, village or district in which it is situated, in the manner prescribed by law. The franchise, roadway, roadbed, rails and rolling stock of all railroads and the franchise and all other property of all express companies, freight line companies, car equipment companies, sleeping car companies, dining car companies, telegraph or telephone companies or corporations operated in this state and used directly or indirectly in the carrying of persons, property or messages, shall be assessed by the state board of equalization at their actual value and such assessed value shall be apportioned to the counties, cities, towns, villages townships and districts in which such railroad companies, express companies, sleeping car companies, dining car companies, telegraph and telephone companies are located or through which they are operated as a basis for the taxation of such property, in proportion to the number of miles of such property within such counties, cities, towns, villages, townships and districts or over which any part of such property is used or operated within such counties, towns, villages, townships and districts. But should any railroad allow any portion of its roadway to be used for any purpose other than the operation of a railroad thereon, such portion of its roadway, while so used, shall be assessed in the manner provided for the assessment of other real property.

CONCURRENT RESOLUTION.

Be it Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring:

§ 1. That the following proposed amendment to section 162 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 rejec-

tion, in accordance with the provisions of section 202 of the constitution of the State of North Dakota.

§ 2. 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 townships within the state, bonds of the United States, bonds of the State of North Dakota, municipal bonds, or on first mortgages on farm lands in the state, not exceeding in amount one third of the actual value of any subdivision on which the same may be loaned, such value to be determined by the board of appraisal of school lands.

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