

the state of North Dakota for 1899 be amended so as to read as follows:

§ 2355. ANNUAL ELECTION. WHEN HELD.] An election for officers of said village, after the first election, shall be held annually on the third Tuesday of March of each year, and at every such election the preceding board of trustees or any of them shall act as the inspectors thereof.

§ 2. AMENDMENT.] That section 2358 of the revised codes of the state of North Dakota for 1899, be amended so as to read as follows:

§ 2358. WHAT VILLAGE OFFICERS TO BE ELECTED.] There shall be elected at the first and at each subsequent election one trustee from each district in said village, and also a clerk, assessor, treasurer, marshal and justice of the peace, who shall respectively hold their offices until the third Tuesday in March next following or until their successors are elected and qualified; provided, however, that nothing herein contained shall prevent the respective offices of clerk, treasurer, assessor and marshal from being held by one and the same person.

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 All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 9, 1903:

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## ESTATES.

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### CHAPTER 94.

[S. B. No. 200—Williams.]

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#### ORDER OF SUCCESSION.

AN ACT to Amend Section 3742, Revised Codes of the State of North Dakota of 1899, Relating to Order of Succession.

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

§ 1. AMENDMENT.] That section 3742, revised codes of 1899, be amended to read as follows:

§ 3742. ORDER OF SUCCESSION.] When any person having title to any estate, not otherwise limited by marriage contract, dies without disposing of the estate by will, it is succeeded to and must be distributed, unless otherwise expressly provided in this code, and the probate code, subject to the payment of his debts, in the following manner:

1. If the decedent leaves a surviving husband or wife, and only one child, or the lawful issue of one child, in equal shares to the sur-

viving husband, or wife and child, or issue of such child. If the decedent leaves a surviving husband or wife, and more than one child living, or one child living and the lawful issue of one or more deceased children, one-third to the surviving husband or wife and the remainder in equal shares to his children and to the lawful issue of any deceased child by right of representation; but if there is no child of the decedent living at his death, the remainder goes to all of his lineal descendants, and if all the descendants are in the same degree of kindred to the decedent, they share equally; otherwise, they take according to the right of representation. If the decedent leaves no surviving husband or wife, but leaves issue, the whole estate goes to such issue, and if such issue consists of more than one child living, or one child living and the lawful issue of one or more deceased children, then the estate goes in equal shares to the children living, or to the children living and the issue of the deceased child or children by right of representation.

2. If the decedent leaves no issue and the estate does not exceed in value the sum of five thousand dollars, all the estate goes to the surviving husband or wife, and all property in excess of five thousand dollars in value, one-half thereof goes to the surviving husband or wife and the other half goes to the decedent's father, and if he is dead, to the decedent's mother, and if both father and mother are dead and the decedent leaves brothers or sisters or children of a deceased brother or sister, then in equal shares to the brothers and sisters of decedent and to the children of any deceased brother or sister by right of representation. If the decedent leaves no issue, nor husband, nor wife, the estate must go to the father, and if he is dead, to the mother. If the decedent leaves a surviving husband or wife and no issue and no father nor mother, nor brother, nor sister, nor children of a deceased brother or sister, then the whole estate goes to the surviving husband or wife.

3. If there is no issue, nor husband, nor wife, nor father, nor mother, then in equal shares to the brothers and sisters of the decedent and to the children of any deceased brother or sister by right of representation.

4. If the decedent leaves no issue, nor husband, nor wife, nor father and no brother or sister is living at the time of his death, the estate goes to his mother to the exclusion of the issue, if any, of deceased brothers or sisters.

5. If the decedent leaves no issue, nor husband, nor wife and no father, nor mother, nor brother, nor sister, the estate must go to the next of kin in equal degree, excepting that when there are two or more collateral kindred in equal degree, but claiming through different ancestors, those who claim through the nearest ancestors must be preferred to those claiming through an ancestor more remote. However, if the decedent leaves several children, or one child and the issue of one or more children, and any such surviving child dies under age and not having married, all the estate that came to the de-

ceased child by inheritance from such decedent descends in equal shares to the other children of the same parent, and to the issue of any such children of the same parent and to the issue of any such other children who are dead, by right of representation.

6. If at the death of such child, who dies under age, not having been married, all the other children of the parents are also dead and any of them have left issue, the estate that came to such child by inheritance from his parents descends to the issue of all other children of the same parent; and if all issue are in the same degree of kindred to the child, they share the estate equally, otherwise they take according to the right of representation.

7. If the decedent leaves no husband, wife or kindred, the estate escheats to the state for the support of the common schools.

Approved March 10, 1903.

#### CHAPTER 95.

[S. B. No. 28—Regan.]

#### REMOVAL OF EXECUTORS, ADMINISTRATORS AND GUARDIANS.

AN ACT to Amend Section 6365 of the Revised Codes of 1899, Relating to the Removal of Executors, Administrators and Guardians.

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

§ 1. AMENDMENT.] That section 6365 of the revised codes of North Dakota of 1899 be amended so as to read as follows:

§ 6365. COURT MAY REMOVE. WHEN.] When the facts which authorize a removal come to the knowledge of the court and no application is made as above provided, the court may make an order requiring the executor, administrator or guardian to show cause why he should not be removed, upon which he shall be cited to appear; and at the hearing the court may revoke his letters as upon a petition, and upon the removal of any such executor, administrator or guardian the court shall appoint a successor.

§ 2. EMERGENCY.] Whereas, an emergency exists in this, that there is now no provision of law for the county court to appoint a guardian in place of one removed, therefore, this act shall take effect from and after the date of its passage and approval.

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

Approved February 4, 1903.